



Labor Update No.25 January 01, 2018

This bulletin contains information on law changes that have either passed, or are being discussed, in parliament, court decisions, and other labor issues in Japan that are of interest to activists.

Translator's note: as the Japanese original of this report was composed in December of 2017, all references to "this year" mean 2017, while "next year" refers to 2018.

1. Law/Policy

(1) Health, Welfare and Labor Ministry announces "Guidelines relating to the Promotion of Side Work and Second Jobs (proposal)", etc.

Materials distributed at "6th Review Meeting on Flexible Work Styles", held on December 19, 2017, linked below (in Japanese):

<http://www.mhlw.go.jp/stf/shingi2/0000188626.html>

(2) 320 billion yen for work-style reform: towards correcting the problem of long work hours—MHWL

The Ministry of Health, Welfare and Labor will put 320 billion yen into work-style reforms, 1.5 times the figure in their initial budget for 2017. 31.7 billion yen will be added to increase the amount of subsidies for businesses that take measures to correct the situation of long working hours and to strengthen the Labor Standards Inspection Office system. Also, 750 million yen will be applied to improving the environment for second jobs, side work, and "tele-work", or working outside of the office.

To help correct disparities between regular and irregular employees, career-up subsidies for companies that proceed with making irregular employees regular, or with improving conditions, will be increased by a factor of 1.4, to 92.3 billion yen. The subsidy amount will also be expanded for those that make pay scales and allowances the same.

2. Legal Violations/Struggles

(1) Opinions divided on Skylark's banning smoking on the way to work—legal problems with company's approach?

Skylark Group, a major family-restaurant company, forbids employees from smoking on the way to work. The ban also applies to electronic cigarettes.

According to Skylark's PR, the rule applies to employees who work at the company

headquarters. As well as doing away with all smoking areas inside headquarters, the company issued an internal memorandum banning smoking on the way to headquarters from the nearest station or bus stop, as well as in front of convenience stores and other outdoor spaces in the vicinity of the headquarters. If violations are noticed, the employee will be given a warning but no penalty. The significance is said to be mainly that of a “reminder” to advocate non-smoking.

However, to go beyond “advocating” and actually ban smoking, outside of the workplace—even without involving any sanction for violators—could potentially be viewed as excessive interference in employees’ private lives.

(2) Two former professors sue Nagoya University of Arts, claiming dismissal unfair

Two former professors at Nagoya University of Arts filed suit in Nagoya District Court on the 22nd against Nagoya Jiyu Gakuin, the educational corporation that runs the university. They claim that their disciplinary dismissal—on grounds of disrupting the operation of the university, etc.—was illegitimate, and are suing for recognition of their status as professors and for a total of 11 million yen in compensation. The two served as chair and vice-chair of the faculty union, and are still in those positions.

The two were given disciplinary dismissal by the educational corporation on October 25 of this year, on the grounds that: 1) they repeatedly took actions that interfered in the running of the university; 2) in the selection of classes to take charge of, they refused without appropriate reason; and 3) they used faculty mailboxes for other than intended purposes by distributing the “Union News”, and engaged in union activities during lesson hours.

Nagoya Jiyu Gakuin says that “because we have not yet been served the complaint, we cannot comment” on the matter.

(3) “Most Evil Corporation of the Year” Award goes to Hikkoshisha; “Web Vote Award” to NHK, “Evil Training Award” to Zeria Pharmaceutical Co. Ltd.

At the “Most Evil Corporation of the Year 2017” award ceremony, Hikkoshisha Co., Ltd., was chosen for the top award. A male employee of Hikkoshisha Kanto was unfairly reassigned to shredder duty, then fired, and on top of that a photo of the man, with the reasons for firing written up as his “crimes”, was displayed in the group’s outlets. The Tokyo Labor Commission recognized this as an unfair labor practice this year.

The Web Vote Award, based on the number of votes via the website, went to Nippon Hoso Kyokai (NHK), where in 2013 a female reporter died of congestive heart failure due to long work hours. Zeria Pharmaceutical Co., Ltd., where a male employee in new-employee training committed suicide, was chosen for the “Evil Training Award”. The “Special Award” was given to Taisei Corp./Sanshin Corp., where a new male employee committed suicide due to overwork. And the “Industry Award” was given to Niigata Shimin Byoin (hospital), where a female medical resident committed suicide.

A total of nine companies—Inageya, Panasonic, Niigata Shimin Byoin, NHK, Taisei/Sanshin, Daiwa House, Yamato Transport, and Zeria Pharmaceutical—were nominated for this year’s award.

(4) “Non-renewals” of irregular faculty: Tohoku U. refuses to reconsider

On December 25, a union at Tohoku University held collective bargaining with the university and demanded they reconsider “non-renewals”, but the university refused. At Tohoku University there are approximately 1,150 irregular employees who will have worked there over 5 years as of April next year. The university plans to terminate the contracts of all but a few of these at the end of March.

In regard to the collective bargaining, Tohoku University says that “as bargaining is still in progress, we are unable to comment”.

(5) 230 dismissals at Japan Legal Support Center regional offices

The Japan Legal Support Center, which was set up as one of the centerpieces of judicial reform, gave sudden notice in September of this year to 230 consultation staff working at regional offices across the country that their employment would end on the last day of March 2018. The center has 110 locations nationwide.

The Japan Legal Support Center, run with national tax money to help solve people’s legal trouble, is an organization “equivalent to an independent administrative corporation”.

The national government is pressing on with legal amendments aiming for employment stability, but meanwhile the situation at a public corporation under Justice Ministry jurisdiction is running opposite to the direction of these legal changes.

The dismissal sentence was handed down in individual meetings, where it was explained that contracts would be terminated all at once in March 2018, and that the reasons were budget limitations and the necessity for revisions in the contents of the Center’s work due to changes in society.

(6) Citations given to Nomura Real Estate Development Co., Ltd.: discretionary working system applied unfairly across the whole company

The Tokyo Labor Bureau has announced that regional Labor Standards Inspection Offices issued citations on December 26 to major real estate company Nomura Real Estate Development’s Tokyo headquarters, the Kansai branch, and two other branches for illegally applying a discretionary working system to its employees and failing to pay part of their overtime.

(7) MHWL: “no problems with major automakers’ unlimited-contract avoidance route”?!

In regard to the fact that Toyota, Honda and other major automotive companies had established rules to avoid switching limited-term employees to unlimited-term, the

Ministry of Health, Welfare and Labor announced on the 27th the results of their investigation: that “no examples were found that could be judged problematic in light of the law”.

When it became clear that most of the major auto companies had “blank period” systems to reset the total period of employment, the Ministry began investigating the situation at 10 of these companies.

According to MHWL, seven of the companies would not have re-employed if they could not reset the total period. Two companies were re-employing even with blank periods of under 6 months, but the one other was not re-employing at all.

The Ministry has not publicized the names of the companies, saying that “the investigation includes companies’ internal information”.

Results of “Survey Regarding Unlimited-Term Conversion for So-called ‘Limited Employees’” linked below (in Japanese):

<http://www.mhlw.go.jp/stf/houdou/0000189946.html>

<http://www.mhlw.go.jp/file/04-Houdouhappyou-11210000-Roudoukijunkyoku-Roudoukankeihouka/0000189940.pdf>

3. Situation/Statistics

(1) Real wages decline for 5 months in a row—October Labor Survey revises preliminary figures

According to the confirmed data from the Monthly Labor Survey (workplaces with 5 or more employees) for October, published by the Ministry of Health, Welfare and Labor on December 22, real wages (with the influence of prices taken into account) decreased 0.1% compared with the same month of the previous year. This was the fifth month in a row of negative figures. At the preliminary stage, the number was reported as a 0.2% increase, but since further research showed that the increase in wages had not kept pace with the rise in prices, this was revised downward.

Total cash earnings per capita, including base pay as well as overtime pay, etc., was 267,433 yen, an increase of 0.2%. The Ministry says that “the nominal amount of wages is rising steadily, albeit by small amounts”.

“Monthly Labor Survey, October 2017 (Definite report)” linked below (in Japanese):

<http://www.mhlw.go.jp/toukei/itiran/roudou/monthly/29/2910r/2910r.html>

(2) MHWL publishes results of 2017 Basic Survey on Labor Unions

The number of union members rose by 41,000 compared to the previous year, to a total of 9.981 million. The estimated unionization rate decreased by 0.2 points, to 17.1%, its lowest ever. For part-time workers, both the total number in a union and the

unionization rate went up.

Details linked below (in Japanese):

<http://www.mhlw.go.jp/toukei/itiran/roudou/roushi/kiso/17/index.html>