



Labor Update No.28 February 16th, 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.

1. Law/Policy

(1) Forcible collection of pension payments after seven months in arrears: scope of rule expanded starting in fiscal 2018

The Ministry of Health, Welfare and Labor and the Japan Pension Service have decided on a plan to expand the scope of forcible collection of national pension payments, collected from those non-payers whose yearly income is 3 million yen or more.

The current standard of “13 months or more in arrears” will be expanded starting in fiscal 2018 to “seven months or more”. The aim is to increase the rate of payment, currently stuck at 60%.

(2) “Restrictions on entertainers and pro athletes a violation of the Antitrust Act”: Fair Trade Commission

Compared to Europe and America, which have progressed with legal regulation of business between freelancers and companies, Japan has so far been said to be falling behind in dealing with this. The FTC hopes that, by settling on a position with regard to the issue, they can revitalize the active use of personnel, leading to improvements in service for consumers.

The committee is also focusing on the working environments of people with high-level skills. They say that unfair restrictions keeping professional athletes from transferring teams, along with production companies’ restrictions on entertainers, may be in violation of the Antitrust Act.

The Fair Trade Commission’s committee will compile and release a final report before the end of February. They will request the industries to make improvements voluntarily in line with their ideas, but may also consider filing charges if egregious cases are found.

(3) A look at the amended Employment Security Law that took effect January 1, 2018.

Largest change: if conditions of a job recruitment are changed after posting, the company making the offer will be required to notify applicants promptly.

Amended Employment Security Law linked below (in Japanese):

http://elaws.e-gov.go.jp/search/elawsSearch/elaws_search/lsg0500/detail?lawId=322AC0000000141&openerCode=1

Related notice and pamphlet linked below (in Japanese)

http://www.mhlw.go.jp/file/06-Seisakujouhou-11600000-Shokugyouanteikyoku/0000139950_1.pdf

http://www.mhlw.go.jp/file/06-Seisakujouhou-11600000-Shokugyouanteikyoku/0000171017_1.pdf

(4) February 8, 2018 MHWL announcement: “strengthened measures regarding unlimited-conversion rule in preparation for April, Heisei 30”

“A smooth introduction of the unlimited-conversion rule based on the spirit of the Labor Contract Law” is said to be the purpose.

Details linked below (in Japanese):

<http://www.mhlw.go.jp/stf/houdou/0000193500.html>

2. Legal Violations/Struggles

(1) Law-evading dismissals at Tohoku University: labor tribunal suit to be filed for confirmation of status—university’s hardline stance unchanged

With Tohoku University planning to begin layoffs in March of a total of about 3,000 irregular staff, some of those with a prospect of not continuing in employment already finalized a plan as of early February to file suit at Sendai District Court for a labor tribunal to confirm their employee status.

Collective bargaining between the staff union and Tohoku University was carried out behind closed doors at the University’s Katahira campus. The union demanded the layoff plan be withdrawn, but the University stated that this would be “financially difficult” and that they did not intend to withdraw it.

(2) Student-dormitory guard (378 yen/hour) company ordered to pay overtime

Tokyo District Court has handed down a verdict in the case of two former employees of Fuji Hoan Keibi (Tokyo). They claimed that they were never paid for overtime despite never being able even to take naps while they worked as security guards in a student dormitory, and were suing the company for a total of 12 million yen in back wages.

The court, saying that “this is an egregious case, and the adverse impact on the former employees was great”, ordered the company to pay a total of 12 million yen including an “additional amount” equivalent to a civil penalty.

The company had claimed that “naps are not working time”, etc., but the court pointed out that “in a dormitory where many exchange students live, trouble was frequent, and even during nap times they were not freed from labor”.

When the two guards’ pay is calculated per working hours, the lowest-paid shift comes out to 378 yen per hour, which the court recognized as “well below the minimum wage in Tokyo Prefecture”.

(3) App developed by lawyers to leave proof of overtime work gets a full renewal

The smartphone app “Zangyo Shoko Recorder”, aimed at workers and used to automatically leave proof of unpaid overtime work by means of GPS, has been fully updated.

The app is free, and is compatible with both iOS and Android.

(4) JETRO hints at dismissal for temporary employees, then withdraws

It has become apparent that the Japan External Trade Organization (JETRO) directed management personnel by e-mail to suggest the possibility of dismissal during the new fiscal year to limited-term employees who had worked for four years or more, and explained to staff eligible for management positions that “contracts for the 2018 fiscal year will be hard to get”.

Minister of Economy, Trade and Industry Hiroshige Seko later directed them to withdraw the text of this mail.

(5) Evasion of unlimited-term conversion among foreign employers too: labor disputes at Institut Francais (an official French government agency) and Benesse subsidiary

At Simul International Inc., over 100 teachers lose jobs after business transferred to group company

Over one hundred foreign instructors at Simul International, a company that does translation and language training, were suddenly notified in November of 2017 that they would be dismissed or have their contracts non-renewed at the end of March 2018. Some had been working there longer than ten years, so there were many who could have been eligible for switching to unlimited-term contracts.

The reason given was a transfer of the company’s business. Simul stated that they were closing the division the instructors belonged to, and moving it to another company, Berlitz Japan. Instructors who wished to could apply for positions at the new company, but there was no guarantee they would be employed.

Even an official agency of the French government: Institut Francais presents a choice of either unlimited-term contracts under bad conditions, or non-renewal of contract

Institut Francais, a language school that is an official French government agency, also has teachers claiming evasion of unlimited-term conversion.

The Institut is said to be making teachers choose between switching to unlimited term with worsened conditions, including an approximately 30% pay cut, or not renewing their contracts.

Some teachers have already swallowed the conditions, but teachers in Tokyo are resisting. They have filed a request at the Tokyo Prefectural Labor Commission for relief from unfair labor practices.

3. Situation/Statistics

(1) 1.28 million foreign workers: 5 record-breaking years in a row—increasing use of interns

The number of foreign nationals working in Japan as of the end of October last year was 1,278,670. This was an increase of 18.0% over the previous year's figure, breaking the previous record for the fifth year in a row.

The Ministry of Health, Welfare and Labor made their announcement on the 26th. With companies suffering from labor shortages increasingly using foreign technical interns as a source of labor, foreign workers' presence is increasing year to year.

The number of foreign workers at the end of October 2016 was just over 1.08 million, the first time since figures began being published in 2008 that this number had gone above one million. Over the past six years the number has nearly doubled, and for the most recent three years the rate of increase has continued to be in double digits.

Reported "situation of employment of foreign nationals" (as of the end of October, 2017) linked below (in Japanese):

<http://www.mhlw.go.jp/stf/houdou/0000192073.html>

(2) Real wages drop for the first time in two years: rising prices resonate—last year minus 0.2%

According to the Monthly Labor Survey (preliminary report) released by the Ministry of Health, Welfare and Labor on the 7th, the real wage index (which shows the movement of wages excluding the influence of changing prices) was 0.2% lower than the previous year, a decrease for the first time in two years.

Nominal wages increased, but failed to catch up with rising prices, leading to a decrease in real wages, which show actual purchasing power.

Average monthly total cash earnings per worker (including part-timers), which correspond to nominal wages, increased by 0.4% over the previous year, to 316,907 yen,

increasing for the fourth year in a row. “Specially paid wages”, such as bonuses, were also up by 0.4%, at 56,114 yen.

On the other hand, the consumer price index, used in calculating real wages, was up by 0.6% over the previous year due to the influence of rising prices for electricity and gasoline. Therefore the real wage index decreased by 0.2% from the previous year.

Looking at total cash earnings by employment category, full-time workers had 414,001 yen, an increase of 0.4% over the previous year, while part-timers had 98,353 yen, an increase of 0.7%.

Part-timers’ hourly wages are continuing to rise, with 2017 seeing an increase of 2.4% over the previous year, to 1,110 yen, breaking the record (for highest figure since surveys started in 1993) for the seventh year in a row.

The proportion of part-time workers, which has continued to rise since 2009, was 30.77% in 2017, an increase of 0.06 points over the previous year.

“Monthly Labor Survey: Preliminary Report of Results for Heisei 29” linked below (in Japanese):

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