



Labor Update No.29 March 26, 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) MHLW Updates “Black Companies List”; adds Art Hikkoshi Center and others

On February 16, the Ministry of Health, Welfare and Labor updated its list of companies that have been prosecuted on charges of Labor Standards Law violations.

Sixty-nine companies were added to the list, while other companies, such as those that had had one year pass since their announcement date, were removed. There were 447 companies on the new list.

“Public Announcement Regarding Violations of Laws Relating to Labor Standards” (updated Feb. 16, 2018) linked below (in Japanese):

<http://www.mhlw.go.jp/kinkyu/dl/170510-01.pdf>

(2) Government decides on “Outline for Measures to Cope with the Aged Society”: considers making “over 70 possible” age to begin receiving pensions, stipulates improving environment so that elderly people can work

The Government has made a cabinet decision on an “Outline for Measures to Cope with the Aged Society”.

In order to deal with labor shortages caused by the declining birthrate and aging population, the core of this plan is to promote environment-building to allow elderly people who wish to work to be able to keep working.

Also indicated clearly as the Government’s intention for the first time was to move forward with considering making it possible to choose to start receiving one’s pension from an age over 70.

As examples of concrete plans for environment-building, the outline mentioned giving support to companies that extend their retirement age to 65 or that continue to employ people even past that point, as well as having the Japan Finance Corporation give financial support to elderly entrepreneurs.

“Outline for Measures to Cope with the Aged Society” linked below (in Japanese):

http://www8.cao.go.jp/kourei/measure/taikou/pdf/p_honbun_h29.pdf

“Outline for Measures to Cope with the Aged Society(Summary Version)” linked below (in Japanese):

http://www8.cao.go.jp/kourei/measure/taikou/pdf/p_gaiyou_h29.pdf

(3) Government to consider expanding foreign labor, relaxing visa-status requirements

The Government will be considering accepting an increased number of foreign workers with specialized knowledge or skills.

The Prime Minister has said that “Severe labor shortages are ongoing. Along with promoting work-style reform, there is also a need to move forward promptly on considering the system for letting in foreign specialists”.

On the other hand, he has also stated clearly that “I have no intention of making an immigration policy”.

As preconditions for consideration, he has said that “there would be an upper limit on the period of stay, and bringing family would basically not be allowed”.

The expansion being considered this time is for those foreign nationals having the residence status of “Specialist/Technical Fields”.

This category includes 18 different fields, including teaching, art, medical care, and elderly-care among others, and accounts for about 240,000 of the 1.28 million foreign workers in Japan (as of 2017).

An expansion of the scope of this category is to be considered, along with a relaxing of the requirements.

“Council on Economic and Fiscal Policy, second meeting of Heisei 30 (2018)” documents linked below (in Japanese):

<http://www5.cao.go.jp/keizai-shimon/kaigi/minutes/2018/0220/agenda.html>

(4) Pamphlet “Rough Outline of the Equal Employment Opportunity Act and the Childcare and Family-Care Leave Act”--to help you know and use your rights.

<http://www.mhlw.go.jp/file/06-Seisakujouhou-11909000-Koyoukankyokintoukyoku/3001aramashi.pdf>

2. Legal Violations/Struggles

(1) “Long working hours”: bereaved family members apply for workers’ compensation,

with smartphone location data as evidence

After a branch manager at a major *izakaya* chain collapsed at work and died, surviving family members have filed for workers' compensation, claiming that long working hours were the cause. The basis for their claim of long hours is location data recorded in a smartphone.

The Labor Standards Inspection Office is carrying out an investigation.

The company that operates the *izakaya* has commented, "we are cooperating with all demands from the family regarding the application procedure. We will continue to deal sincerely with the matter, and will leave the decision up to the authorities".

(2) Fukuoka District Court, Kokura branch, saying disparities in allowances for part-timers are "unreasonable", orders company to make compensation

The Kokura branch of the Fukuoka District Court has issued a verdict ordering compensation from a company in a lawsuit filed by part-time workers in Kita-Kyushu City.

The workers' claimed it was illegal for the amount paid as their transportation allowance to be different from that paid to full-time regular employees, despite there being no great difference in the contents of their duties.

The four part-time employees were engaged in the same type of cargo handling work done by full-timers, but their transportation allowance was 5,000 yen per month, half that for full-time employees.

Their claim was that this violated the Labor Contract Act, which forbids unreasonable disparities in working conditions.

(3) Part-time university lecturers file criminal charges against Ritsumeikan corporation head for dismissals

Part-time lecturers at Ritsumeikan University have announced they will be filing criminal charges against the head of the Ritsumeikan educational corporation at Kyoto-kami Labor Standards Inspection Office.

Their claim is that the corporation's working rules, which specify that contracts for part-time faculty will not be renewed past five years, were decided without hearing the opinion of a representative of the majority of workers, and are therefore illegal.

Ritsumeikan says "we have received a warning over a flaw in our working rules, but we do not believe that makes them immediately invalid".

(4) Tohoku U. Dismissals:

a) Two irregular staff members file charges against university administration at Sendai Labor Standards Inspection Office

Two irregular staff members at Tohoku University have filed charges against the university's administration at the Sendai Labor Standards Office, claiming that amendments to the working rules between 2015 and 2017, setting the maximum limit on employment at five years, are in violation of the Labor Standards Act.

Tohoku University has issued the remark that "as we are not yet aware of the contents of the charges, we will refrain from commenting".

b) Tohoku U. faculty union petitions for redress of grievance

Tohoku University's faculty union has filed a grievance at the Miyagi Prefectural Labor Relations Commission, saying that "at collective bargaining when we demanded they withdraw the dismissals, the University negotiated in bad faith, which constitutes an unfair labor practice."

Tohoku University has commented that "we are not aware of the contents of the claim, but we did negotiate in good faith at bargaining, so we are deeply disappointed".

(5) Employed for over 20 years, woman files suit seeking "equal pay for equal work"

A woman who has worked over 20 years on limited-term contracts at a company listed in the first section of the Tokyo Stock Exchange has filed a lawsuit in the Tokyo District Court, claiming that the pay gap between her and regular full-timers was unfair.

The woman joined the company in 1996 as a *shokutaku shain* (contract worker), and renewed her contract continuously for over 20 years.

In 2002 she was transferred from an office in Yokohama City to a factory in Funabashi City, Chiba Prefecture. In 2012 she was reassigned from sales to manufacturing, and is in charge of purchasing materials.

(6) Osaka District Court ruling: disparities in allowances for contract employees at Japan Post "unreasonable"

Osaka District Court has given its verdict in the lawsuit filed by eight contract employees of Japan Post, who claimed it was in violation of the Labor Contract Act for there to be disparities in allowances paid to them and to the full-timers despite doing the same jobs.

They sought a total of about 31 million yen in unpaid allowances, etc. from the company.

The court pointed out that it was “unreasonable” for the New Year’s holiday work allowance, housing allowance, and family allowance to be paid only to regular employees.

They ordered the company to pay each plaintiff an amount ranging from 30,000 yen to 1.99 million yen.

On the other hand, the court denied their demand for recognition that they were in the same position as regular employees, calling this “illegitimate”.

(7) Abolition of union dues checkoff recognized as “control or interference”; Osaka City loses court case

Tokyo District Court has rejected Osaka City’s claims in the court battle over whether it constituted an unfair labor practice when the city did away with a union dues checkoff system (whereby union dues were deducted from salary) for city workers.

Tokyo District Court judged that, since Osaka City failed to carry out sufficient bargaining with the union, and given then mayor Hashimoto’s comments showing hostility toward the union, “the notice of abolition was made in the awareness that its effect would be to weaken the union”.

Deciding that this constituted “control or interference”, which is forbidden by law, the court rejected the City’s claim.

Osaka City is planning to appeal this decision.

3. Situation/Statistics

(1) Workers in Germany win right to a 28-hour work week

German metalworkers’ union IG Metall has reached an agreement with a management group on introducing a 28-hour work week by the 9th. With this, a majority of the 2.3 million union members will be able to work more flexible hours.

IG Metall explains that making work hours more flexible will be a help to workers wishing to take care of children or relatives.

In this case, the plan is that pay will be less, reflecting their shorter hours. Workers will also get the option to work over 40 hours per week and increase their earnings.

Some companies seem likely to feel resistance to the new working hours. The management group that agreed to the deal explains that it was a “painful” compromise.

(2) Family restaurant Joyful to give 17,000 part-timers unlimited-term employment

Joyful, the company that operates family-restaurant chain “Joyful” among others, has announced that they will switch 17,000 people who work as part-timers and “*arubaito*” onto unlimited-term employment.

This will be put into effect beginning on April 1. Up until now, in principle these workers had renewed limited-term contracts one year at a time.

The switch to unlimited-term will also be carried out at subsidiary companies that run restaurant branches in Kanto, Tokai, Kansai and other areas.

The change will apply to all part-timers and *arubaito*. As of the end of 2017, this amounted to a total of 16,929 people.

The plan is to switch all of these workers to unlimited-term, regardless of the number of years worked. All part-timers and *arubaito* who begin work on or after April 1 of this year will be signed on to unlimited contracts.

(3) Kanagawa Labor Bureau to request improvement of labor conditions at cram schools

Kanagawa Labor Bureau has decided to send a written request for improvement to 97 businesses that manage cram schools, saying that when the schools pay teachers not hourly, but per lesson, the work done outside of lessons may go unpaid.

The Labor Bureau is therefore requesting that when contracts are made, expected work outside of lessons (preparation, test marking, etc.) be indicated specifically and an hourly rate clearly shown.

Also, giving examples of cases where a per-lesson wage, when calculated per hour, came out less than the minimum wage, they are asking that pay for lesson time also be shown per hour.

(4) Shiga Prefecture group publishes information paper for foreign residents in 8 languages

The information paper published by Shiga Intercultural Association for Globalization is “Mimitaro”, printed on four A4 pages.

It is published once every three months.

The languages are Japanese and English, Portuguese, Korean, Spanish, Tagalog, Chinese in simplified characters (aimed at Mainland Chinese), Chinese in traditional characters (for Taiwanese), a total of eight versions and 18,000 copies.

The Japanese version has *hiragana* readings for the *kanji* and *katakana*.

The contents are about Japan's social systems and regional information, etc. The January 2018 issue explains such topics as the new rules for limited-term employment contracts, educational funding such as scholarships, and other things important to the everyday lives of foreign workers.

The paper is distributed free of charge to libraries and other public facilities in the prefecture. For information, contact the Association at 077-523-5646.