



Labor Update No.33 May 7, 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) “Work-Style Reform Bill” submitted to the Diet on April 6

The official name is “Bill Relating to the Arrangement of Relevant Laws in Order to Promote Work Style Reform”.

Details of the bill linked below (in Japanese):

<http://www.mhlw.go.jp/topics/bukyoku/soumu/houritu/196.html>

(2) Government considering new status of residence allowing foreign nationals to stay and work for five years after completing technical internships

In order to deal with personnel shortages in fields such as farming, elderly care, etc., the government has begun deliberating whether to establish a new status of residence for foreign workers.

Foreign nationals such as those who have completed a “technical internship” of up to five years would then be able to work for up to an additional five years.

The government will aim to have an amendment to the Immigration Law (Immigration Control and Refugee Recognition Act) submitted to the autumn special session of the Diet, pass it there, and have the new system take effect starting next year.

(3) MHWL “Black Companies List” updated; additions include “international friendship society” that cheated foreign employees out of wages

The Ministry of Health, Welfare and Labor has updated its list of companies prosecuted for violating laws related to labor standards.

From the Ministry’s website: “Items for Publication Relating to Violations of Law on Labor Standards” (the so-called “Black Companies List”) linked below (in Japanese):

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

2. Legal Violations/Struggles

(1) Disqualified from public vocational training due to disability: “direct discrimination, and illegal”--prefecture ordered to pay 330,000 yen compensation

A man who lives in Kochi City, claiming that his application for public vocational training was rejected on the grounds of his developmental disability and that this was illegal, has sued the prefecture for withdrawal of the disqualification.

He also sued both the prefecture and the national government for monetary compensation. A ruling was given in Kochi District Court on April 10.

The presiding judge, saying that “the plaintiff suffered emotional damage”, ordered the prefectural government to pay 330,000 yen of the 1,650,000 that the plaintiff had sued for.

After the trial was held and the verdict given, the man commented that “For me, it’s a total victory.

The misunderstanding and prejudice that the disabled are harmful is itself an obstacle to coexistence in society.

I hope that employment and recruitment of people with disabilities will increase.”

(2) Salon employees’ fixed overtime pay invalid; unpaid amount ordered to be paid--plaintiffs call it “textbook case of job-offer fraud”

On April 18, Tokyo District Court ordered payment of 4.2 million yen to four female employees who had worked at a beauty salon. They had sued the company for a total of about 5.2 million yen in unpaid overtime for the years 2014-2016.

An attorney representing the four women praised the ruling, saying “this was a textbook case of job-offer fraud, so the fixed overtime pay was held to be invalid”.

Those in doubt may wish to consult with a public institution or with a union.

(3) Pleas heard in the Supreme Court over disparities in employee treatment

A case has begun in the Supreme Court over whether or not it is illegal for there to be differences in conditions between regular and irregular employees when the contents of their duties are the same.

The verdict, to be handed down on June 1, will attract attention due to potentially having an influence on the debate around “equal pay for equal work”.

In pleading held at the Supreme Court on the 20th, the plaintiffs made the case that “if pay is cut after retirement age, even though the work is the same, this will severely weaken one’s will to work”.

Responding to this, the company side argued that “it should be taken directly into consideration that many businesses have been able to secure employment for workers by lowering their pay by a certain proportion”.

3. Situation/Statistics

(1) Sexual-minority couples take commitment vows: partnership system begins in Fukuoka City

A “Partnership Oath System”, granting public recognition to sexual-minority couples, has begun this year in Fukuoka City, with the first couple submitting their written vows at City Hall on the 2nd. Fukuoka is the seventh municipality in Japan to institute such an oath system, and the second (after Sapporo City) whose system is not limited to same-sex couples.

The system in Fukuoka is aimed at couples where one or both are members of a sexual minority group, and has as conditions that (1) they are 20 years old or older, and live in Fukuoka City or plan to move there; (2) neither has any other spouse or partner; and (3) the two are not blood relations.

The system is not legally binding, but will enable couples to be treated as kin for purposes such as consent to surgery at municipal hospitals, application for city council housing, etc.

According to the City, there are six other couples planning to take vows within the month of April.

(2) Persons with disabilities total 9.36 million, or 7.4% of population: MHWL estimate

On April 9, the Ministry of Health, Welfare and Labor published its estimate that the total number of people in Japan with physical or mental disabilities is 9,366,000.

This is approximately 1.49 million more than the previous estimate published in 2013.

The proportion of Japan’s overall population has also gone up, from the previous 6.2% to 7.4%.

The estimates come from a survey of the life conditions of people with disabilities that was conducted from 2014 to 2016.

The number of persons with physical disabilities was approximately 4.36 million (an increase of about 423,000 over the previous estimate), of those with intellectual disabilities approximately 1.082 million (an increase of about 341,000), and of those with mental illness approximately 3.924 million (an increase of about 723,000).

Every category included an increasing number of elderly people.

The proportion of people over 65 among those with physical disabilities was 74% (69% in the previous estimate); among those with intellectual disabilities it was 16% (9% as of the previous estimate); and among those with mental illness it was 38% (36% previously).

In the Ministry's analysis, in addition to the progressively aging population, improved understanding of disability has led more and more people to receive recognition of their disabilities, which is also one cause of the increasing numbers.

"Heisei 28 [2016] Survey on Difficulty of Life, Etc. (Nationwide Survey of Homebound Children and Others with Disabilities): Summary of Results" linked below (in Japanese): http://www.mhlw.go.jp/toukei/list/seikatsu_chousa_b_h28.html

(3) Regular employees' conditions worsened to eliminate disparity: Japan Post strangely abolishes allowances

Japan Post Group will abolish housing allowances for approximately 5,000 of its regular employees as of October this year.

This allowance is given only to regular employees (*seishain*), so the result will be a narrowing of the gap in conditions between regular and irregular staff.

The movement toward "equal pay for equal work" continues to gather steam, but to eliminate disparity by worsening the conditions of the regular staff is unprecedented.

"Equal pay for equal work" is included as a main pillar of the work-style reform bill, considered by the Abe administration as the most important bill before the Diet in this session.

According to MHWL's proposed guidelines, disparities in conditions such as transport allowances, meal allowances, etc. (which are often paid only to regular employees) would not be acceptable.

The government is assuming that irregular workers' conditions would be raised to match those of regular employees.

The hope is also that increasing wages for irregular workers will lead to economic growth.

However, after Japan Post has made this decision to do the opposite, there is a possibility that other companies will follow suit in worsening conditions for regular employees instead.

(4) Sutra-chanting preparation starts before dawn: is a monk an apprentice or a worker? Buddhist monk at Mount Koya gains work-injury recognition for depression

A male Buddhist monk in his 40s who works at a temple on Mount Koya has received recognition of his depression as a work injury.

The man was starting work before 5:00 A.M., and on long days continuing work until past 9:00 P.M. While taking care of the needs of guests, including the morning sutra recitations, he also was engaged in the regular duties of the temple.

The Ministry of Health, Welfare and Labor has released an official notice about the worker status of clergy such as Buddhist monks: “The Application of Labor Standards Law (Relating to Labor Standards Act, Article 9) in Regards to Religious Groups” (Feb. 5, Showa 27[1952], Kihatsu #49).

Experts have stated that “This case shows that for temples and monks to win the public’s trust and continue doing missionary work, they will need to follow the law properly”.

(5) Chiba City draws up guidelines to support sexual minorities

In order to deepen understanding toward members of sexual minorities such as LGBT and be able to provide service and support in accordance with their situation, Chiba City drew up “Guidelines (Principles) for LGBT Awareness and Support” in March.

With the 2020 Tokyo Olympics and Paralympics ahead, they say they hope to foster a feeling of consideration towards people with various individual differences.

The principles state an aim for “a society where everyone recognizes each other’s right to live their own way”.

In addition to basic LGBT-related information, they also explain thoughts on how to deal appropriately with people in different contexts.

They introduce real-life case examples such as “not using expressions that label people’s gender or relationships”, “checking ID by pointing at the document without speaking the name aloud, so bystanders will not realize the gender”, as well as listing words that persons concerned may find hurtful.

The guidelines can be seen on the city’s homepage, linked below (in Japanese):

http://www.city.chiba.jp/shimin/seikatsubunka/danjo/lgbt_guideline.html

(6) Gifu Prefecture establishes LGBT consultation desk: evening of the third Friday of each month

Gifu Prefecture will have telephone consultations for LGBT (sexual minority) people starting on April 20.

The aim is for this to be a place people can go who have worries relating to sexual orientation, gender dysphoria, etc.

The prefecture conducted a "Survey of Residents' Attitudes Regarding Human Rights" in January of last year.

In response to the question of what would be "necessary to solve human-rights problems for people of differing sexual orientations", the third most common answer--after "promotion of education and awareness activities" and "legal acknowledgment and protection"--was "having more human-rights consultation offices or telephone consultation" with 18% of the total.

The help desk will be open on the third Friday of every month from 5:00 to 8:00 P.M. Please call the dedicated phone number (058-278-0858).