



Labor Update No.38 July 2, 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) “Basic Policy on Economic and Fiscal Policy and Reform: Realizing a Course of Sustained Growth by Overcoming the Decline of the Birthrate and the Aging of the Population” (*Honebuto no hoshin*) approved by Cabinet after report at Council on Economic and Fiscal Policy

Complete text is linked below (in Japanese):

http://www5.cao.go.jp/keizai-shimon/kaigi/cabinet/2018/2018_basicpolicies_ja.pdf

(2) Government to reconsider old-age pensions for those still working, with abolishment in the range of possibilities: “weakens elderly people’s will to work, causing economic loss”

It has become apparent that the Government is to work on reconsidering the system of old-age pensions for those still working, in which elderly people with an income equivalent to that before retirement receive reduced pension payments.

Abolishing the system outright is within the range of possibilities to be considered.

They aim to amend relevant laws, such as the Welfare Pension Insurance Act, at the regular Diet session in 2020.

Amid predictions of a decline in the population of productive age due to the declining birthrate and aging population, the Government is thinking to have the healthy elderly continue to work, becoming a support to society.

They will make drastic revisions to the system, which has been said to weaken elderly people’s will to work.

(3) MHWL publishes “Situation of Guidance and Supervision, Prosecutions, etc., of Those Implementing Training for Foreign Technical Interns”

Of those implementing training who received guidance and supervision, 70.8% were recognized as having violations of laws on labor standards. It is largely a “state of lawlessness”. The gap between the real situation and the official theory is reaching its limit.

“Situation of Guidance and Supervision, Prosecutions, etc., of Those Implementing Training for Foreign Technical Interns” linked below (in Japanese):

<http://www.mhlw.go.jp/stf/houdou/0000212372.html>

(4) What to do about workers’ compensation at side jobs: debate begins at Labor Policy Council

The Labor Policy Council (an advisory body to the Ministry of Health, Welfare and Labor), which includes representatives from both labor and business, has begun discussion on rules for compensation for absence from work and for recognition of overwork death when a worker meets with an industrial accident at a second or side job.

The government, waving the banner of promoting second and side jobs, is considering amending laws to strengthen protection for workers.

However, since this could have an effect on companies’ responsibilities, some on the management side favor a cautious approach. It is unclear whether the government will get its way.

Currently, for those who work at more than one workplace, if they are injured at work and have to take time off all their jobs, workers’ accident insurance will compensate them for absence based only on their pay from the one company where the industrial accident was recognized.

Thus, it is under consideration whether it could be possible to total up wages from multiple workplaces in calculating the amount.

The hours of overtime considered in determining whether a death was from overwork are also currently judged for one company at a time.

But when a worker collapses at work, even if the overtime hours at that particular workplace are short, the person may well be overworked and be over the “*karoshi* line” in total.

Therefore appropriate approaches are being debated.

(5) Minimum wage “3% increase” a focal point: MHWL council--some small and mid-size businesses resistant

Debate has begun on the amount of the raise in the minimum wage this fiscal year.

Based on the Abe administration's wish to get out of deflation by raising wages, for the past two years the yearly rate of increase has been high, at 3%.

The focus of discussion will be whether that 3% can be maintained for this year as well.

The current minimum wage (nationwide weighted average) is 848 yen per hour. This increased by 25 yen in each of fiscal years 2016 and 2017; for this year, if it goes up by 26 yen, that will be a 3% increase.

"Documents for 50th Meeting, Central Minimum Wage Council" linked below (in Japanese):

<http://www.mhlw.go.jp/stf/shingi2/0000213052.html>

(6) Protection of "freelancers" to be debated: Labor Policy Council subcommittee outlines report proposal

A research group in the Ministry of Health, Welfare and Labor is predicted to begin discussion of extending worker protections to "freelancers", who contract for work as individuals.

A subcommittee of the Labor Policy Council (an advisory body to MHWL) put together an outline for a proposed report on June 27 which makes the case that consideration of this should begin soon.

The report is predicted to be submitted to the Labor Policy Council in September, and discussion will then begin in the research group.

"Outline of (Proposed) Report", presented at "9th meeting of Labor Policy Council, Labor Policy Basic Subcommittee" held on June 27, 2018, linked below (in Japanese):
http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisakutoukatsukan-Sanjikanshitsu_Roudouseisakutantou/0000189091_3.pdf

(7) Non-regular workers "not eligible to join" over 60% of unions: MHWL survey

The number of workers known as "non-regular" employees or staff is not currently increasing as a percentage of the total number of employed people.

However, as the total number of those employed is tending to increase, the number of "non-regular" workers is increasing in proportion.

The main groups of non-regular workers are homemakers and other part-timers; and elderly people re-employed after retirement. These groups are set to continue increasing in number in the future.

There is a move to convert some part-time workers to regular employment, but for non-regular workers it is generally difficult to participate in a labor union, and due to that employment can easily be unstable.

Unstable employment leads to unstable life, and can lead to decreasing consumer purchasing power in the macro scale.

The difficulty for non-regular workers in joining unions is a major problem for the labor market in Japan.

“Heisei 29 [2017] Survey of the Actual Situation Regarding Negotiations, etc., Between Labor and Management: Summary of Results” linked below (in Japanese):

<http://www.mhlw.go.jp/toukei/list/18-29gaiyou.html>

2. Legal Violations/Struggles

(1) Labor tribunal: Nagasaki man files suit seeking government reparations, saying “judge forcibly imposed non-disclosure”

In the case of a man in Isahaya City, Nagasaki Prefecture, who filed for a labor tribunal at Nagasaki District Court claiming he had been unfairly fired, it has come to light that the Labor Tribunal Committee (made up of judges and others), while ordering the company to pay the man a financial settlement, also in their ruling made the man promise the company “not to disclose” the contents of the settlement.

The man, who refused the condition of non-disclosure, claims that “being unable to talk about it, even though the company was recognized to be in the wrong, goes against the freedom of expression and conscience that are in the Constitution”.

He is soon to file suit at Nagasaki District Court seeking reparations from the government.

(2) Vice-principal at Fukui City elementary school falsifies teacher’s work hours: overtime over 100 hours under-reported

It has come to light that a vice-principal at a Fukui City municipal elementary school made unauthorized changes to a teacher’s work attendance and hours record for the month of May, and encouraged the teacher to under-report the hours worked.

The teacher declared more than 100 hours overtime in one month, which is generally called the “*karoshi* line”, but was actually reported to the city and the prefecture as being within 100 hours.

The city Board of Education, in response to reporters, admitted that “falsification did

happen”.

The vice-principal, answering questions from the principal, said that “I thought if we made work more efficient, we could reduce those working hours”.

The story was spread on Twitter, with the city’s name not revealed, and was retweeted approximately 2,900 times.

(3) Part-time lecturers sue Nichidai: “dismissals are unfair”

Eight part-time lecturers in the Crisis Management Department, the Sports Science Department, and others at Nippon University (Nichidai) have sued the University.

Claiming that they were dismissed unfairly just before becoming able to apply for a change to unlimited contracts (in line with the rule coming into effect in April that enables employees on limited term contracts with over five years in service to convert to unlimited contracts if they wish), they filed suit at Tokyo District Court seeking confirmation of staff status, etc.

(4) British former teacher at Shoin High, Osaka, files suit claiming “dismissal was unfair”

A British man aged 48, formerly a teacher of English at Shoin High School (Higashi-Osaka City, Osaka Prefecture) filed a suit at Osaka District Court on the 25th against educational corporation Shoin Gakuen, which runs the school.

He claims he was dismissed from his job just before becoming able to switch to permanent employment, and is suing for confirmation of teacher status.

“I hope to return to school as soon as I can”, he says.

3. Situation/Statistics

(1) “Power harassment” consultations total over 72,000, their highest number ever: workplace “bullying/harassment”

According to the Ministry of Health, Welfare and Labor, the number of consultations regarding working environment, etc., heard by regional Labor Bureaus in fiscal year 2017 totaled approximately 253,000.

Cases of workplace “bullying or harassment”, such as abusive language or power harassment from superiors, accounted for over 72,000 of these, their highest number ever. By type of consultation, this was the top category for the sixth year in a row.

“Enforcement Situation of Individual Labor Dispute Resolution Systems, Heisei 29

[2017]" linked below (in Japanese):

<http://www.mhlw.go.jp/file/04-Houdouhappyou-11201250-Roudoukijunkyoku-Roudoujoukenseisakuka/0000213218.pdf>

(2) RENGO urges government to deal with matter of public employees' basic labor rights

On the 28th, regarding the granting of basic labor rights to public officials, RENGO issued a statement saying "we would like to see the government take the international community's severe criticism to heart, and take proper measures on the matter" and urging the government to take action.

The International Labor Organization (ILO) warned the Japanese government and persons involved this month that they should confer on the issue.

(3) Certificates for LGBT couples: to be granted in Osaka City starting July 9

As a part of their support aimed at eliminating prejudice and discrimination toward sexual minorities (LGBT), Osaka City has announced that they will be starting a "Partnership Oath Certificate" system beginning on July 9 that will give public recognition to LGBT couples and issue them an official document.

Similar types of systems were introduced in both Shibuya and Setagaya Wards, Tokyo Prefecture, for the first time in Heisei 27 [2015], and have already been also introduced in various municipalities such as Takarazuka City, Hyogo Prefecture. Osaka is the third designated city to do so.

Inquiries: City Human Rights Awareness and Consultation Center (TEL) 06-6532-7631.

(4) RENGO survey: number of limited-term contract workers unaware of "unlimited-term contract conversion" remains at 68%

In order to get a sense of the level of awareness of the amended Labor Contract Act among limited-term contract workers since conversion to unlimited term started, the Japanese Trade Union Confederation (known as RENGO) has conducted a survey, the "2018 Survey Regarding Limited-Term Contract Workers".

Summary of survey results:

- Proportion of limited-term contract workers unaware of the contents of "Conversion to an Unlimited-Term Contract" (Art. 18): unchanged at 68%
- Proportion of limited-term contract workers unaware of the contents of "Prohibition of Unreasonable Labor Conditions" (Art. 20): 83%

- How did you find out about the Amended Labor Contract Act? Over 50% “mass media”; 40% “workplace explanation”
- “I am eligible to apply for conversion to unlimited term”: approximately 20% of limited-term contract workers; “I do not know whether I have the right to apply for conversion to unlimited term”: about 45%
- Of those eligible for conversion to unlimited term, 1 in 4 answered “I have applied for unlimited-term conversion”
- Thoughts regarding “Conversion to an Unlimited-Term Contract” (Art. 18): approximately 60% say it is “meaningless, since it doesn’t mean receiving the same treatment as *seishain*”
- Regarding Article 20 (“Prohibition of Unreasonable Labor Conditions”): about 35% “eligible for bonus payment”, about 50% “eligible for education and training”
- Status of implementation of Labor Standards Act, Art. 15 (Clear Specification of Labor Conditions):

Notice of wages, working hours and other conditions “not given either in writing or by word of mouth” 10%

Notice of whether or not contracts renewed “not given either in writing or by word of mouth” 12%

- Rate of awareness of holidays and leave that even limited-term contract workers, as long as they meet certain conditions, can take:
 - “Annual paid leave” over 80%
 - “Child-care leave” at only 50%

“2018 Survey Regarding Limited-Term Contract Workers” linked below (in Japanese):
https://www.atpress.ne.jp/releases/159989/att_159989_1.pdf