



## Labor Update No.44 October 8th, 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) MEXT to manage teachers' work hours over the course of the year, shorten limits during holiday periods

The Ministry of Education, Culture, Sports, Science and Technology (MEXT) will soon present a proposal for introducing a modified working hours system for school teachers.

The proposal will be presented to a special subcommittee of the Central Education Council, which is debating plans for work-style reform for teachers.

While extending the maximum limit on working hours from eight to ten hours during busy periods such as the beginning and end of the school year, the plan would shorten the limit during summer and other holiday periods, and make it easier to institute school closing days.

The aim in this is to counter the trend toward increased extra hours of work.

MEXT aims to amend the Special Measures Law on Teacher Salaries in order to allow Boards of Education and schools to have flexibility in setting work hours, but they plan to preserve the provision whereby, in exchange for paying a "teaching position adjustment" of 4% on top of teachers' base salary, they basically do not pay overtime.

(2) What will happen to dispatch workers' pay? Equal Pay for Equal Work discussed at Labor Policy Council subcommittee

In regard to "Equal Pay for Equal Work", a subcommittee of the Labor Policy Council (an advisory body to the Minister of Health, Welfare and Labor) has for the first time presented a draft guideline indicating concrete rules applying to dispatched workers.

The rules aim to disallow unreasonable disparities in treatment between dispatched workers and employees of the dispatch-client company.

However, dispatch work involves complicated relationships between dispatch companies, dispatch clients, and so on, so there will be many challenges to ensuring effectiveness.

To compare conditions, it is essential that the dispatch client provide information to the dispatching company.

But from the employers' side, the attitude was one of reluctance to reveal company information such as business results.

"Equal Pay for Equal Work" for dispatched workers is to take effect in April of 2020.

"10<sup>th</sup> Meeting of Labor Policy Council Occupational Security Section Committee on Employment and Environment, Equal Pay for Equal Work Subsection" linked below (in Japanese):

[https://www.mhlw.go.jp/stf/shingi2/0000176596\\_00004.html](https://www.mhlw.go.jp/stf/shingi2/0000176596_00004.html)

(3) Debate begins on expanding eligibility for *Kosei Nenkin*: MHWL council

Debate has begun in earnest at the Ministry of Health, Welfare and Labor (MHWL) on expanding the range of eligibility for the Welfare Pension (*Kosei Nenkin*) in order to make it easier for short-hours workers to join.

Revisions to the pension system will proceed based on the results of the "financial verification" to be carried out next year.

Later, MHWL will debate making smaller workplaces eligible, lowering the wage criterion, etc. They are thinking to submit an amendment bill as soon as 2020.

"4<sup>th</sup> Social Security Council, Pension Section" linked below (in Japanese):

[https://www.mhlw.go.jp/stf/shingi2/0000212815\\_00002.html](https://www.mhlw.go.jp/stf/shingi2/0000212815_00002.html)

<https://www.mhlw.go.jp/content/12601000/000355188.pdf>

(4) Government back to square one on expansion of discretionary labor system: methods of investigating situation debated

An expert panel at MHWL has begun debate on how to research the real work situation of people working under a discretionary labor system.

The government was planning to include an expansion of the discretionary labor system in the Work-Style Reform Act that was passed in June, but withdrew this after receiving criticism of survey results relating to the system.

This panel is being considered the first step towards once again aiming to expand the system, but the prospects are unclear.

The government has not changed their intention of expanding the system, but the results of investigation show that working hours get much longer under a discretionary labor system, debate is certain to become complicated.

“First Specialist Panel on Researching the Situation under Discretionary Labor Systems (Meeting documents)” linked below (in Japanese):

[https://www.mhlw.go.jp/stf/shingi2/0000211189\\_00002.html](https://www.mhlw.go.jp/stf/shingi2/0000211189_00002.html)

## 2. Legal Violations/Struggles

(1) Overwork Death (*karoshi*): industrial-accident application for truck driver with 158 hours of overtime in a month

Family members of a truck driver who died of heart failure at the age of 52 have applied for industrial-accident compensation at the Kawaguchi Labor Standards Inspection Office, claiming the man’s death was a case of *karoshi* resulting from his long working hours.

Attorney Hiroshi Kawahito and others, representing the bereaved family, announced this at a press conference on the 10<sup>th</sup>.

The amount of overtime worked by the man per month was routinely over 100 hours; in the month before the onset of his heart condition, it is said to have been approximately 158 hours.

(2) Tokyo District Court declares dismissal after return from childcare leave “invalid”, orders wages be paid

Tokyo District Court handed down a verdict on the 11<sup>th</sup> in the case of a woman aged 37 who had worked at an English conversation school in Tokyo.

On returning to work after taking childcare leave, the woman had been pushed to change her contract from *seishain* (full-time regular employee) to *keiyaku shain* (contract employee), and later dismissed from the job.

Claiming that this constituted maternity harassment, and violated the Equal Employment Opportunity Act, among other things, she had sued the company that runs the school, Japan Business Labo, seeking confirmation of *seishain* status and payment of back wages.

The Court ruled that the dismissal was invalid, and ordered the company to pay approximately 4.91 million yen in back wages, etc.

Along with this case, the Court also heard the company’s suit, seeking confirmation that the woman did not have contract-employee status.

The company's suit was rejected.

(3) Entire municipality in rampant violation of own ordinance: voice of surprise from union spokesperson

In the town of Ninomiya, local government acts violating their own local ordinances have been found to be rampant.

There is no union organization in the town government, and overtime allowances seem to have been going unpaid for many years.

A spokesperson for a labor union in the prefecture expressed surprise, saying "one often hears of it happening on the level of one department, but this is the first I've heard of a whole municipality doing it".

According to a spokesperson for the Town, the non-payment was discovered due to one employee who spoke out.

Because that employee saw a problem with there being no allowance paid for the overrun of work after hours, the matter was then taken up at the town council.

The town has no local public employees' union.

(4) "Application of discretionary labor system invalid": woman in her 20s, not licensed as an architect, works 185 hours of overtime in a month; Labor Standards Inspection office gives guidance

It became known on the 18<sup>th</sup> that a woman in her 20s, who worked for an architectural design office, had a discretionary labor system applied to her despite not being a licensed architect.

She was made to work up to 185 hours of overtime per month and contracted a mental disorder.

Responding to this case, the Central Labor Standards Inspection Office (Tokyo) issued guidance to the design office saying their application of the discretionary system was invalid, and gave them a warning over the non-payment of overtime, etc.

The woman insists that "with the discretionary labor system, they were able to make me work as much as they wanted. I thought of dying several times".

A spokesperson for the office says they are "unable to comment".

### 3. Situation/Statistics

#### (1) Labor shortage severe--Ministry considers stopping Saturday mail delivery

The Interior Ministry is considering having letters and other mail delivered only on weekdays.

Based on the Mail Law, Japan Post currently delivers mail on weekdays and Saturdays.

But according to a spokesperson, in order to deal with a severe labor shortage among other things, it has become necessary to reconsider mail delivery.

#### (2) More say they will depend on working income than pensions in their old age: attitude survey of people in their 20s-40s

Asked what they will depend on most for money in their old age, more answered "income from working" than "pension": an "Attitude Survey of the Generation Supporting Social Security" released by the Ministry of Health, Welfare and Labor has shown that people from their 20s to their 40s are thinking this way.

Among people from their 20s to 30s, nearly 50% mentioned income from working, while only about 30% said a pension.

When asked what was "the thing you will depend on the most as a means of supporting your life in old age", 47.8% of respondents in their 20s answered "income from my or my spouse's work".

So did 46.7% of those in their 30s and 43.6% of those in their 40s, making this the most popular answer for each of those age groups.

For those aged 50-64 the figure was 32.6%, and for those over 65 it was 11.4%, making this answer the second most popular for those groups.

29.5% of people in their 20s answered "*Kokumin Nenkin, Kosei Nenkin* or other public pension", as did 33.4% of respondents in their 30s and 36.4% of those in their 40s.

This was the second most popular answer for each of these groups.

In comparison, the figure among people aged 50-64 was 51.8%, and for those over 65 was 72.3%, making this the most popular answer for each of those groups.

When asked what was "the thing you are most worried about for the future" out of public pensions, health care and elderly care, employment, and so on, the answer "whether or not a public pension will be enough to support me in old age" was the most popular in all age groups.

“Regarding the Results of Heisei 28 [2016] Attitude Survey of the Generation Supporting Social Security” linked below (in Japanese):

[https://www.mhlw.go.jp/stf/houdou/0000174288\\_00001.html](https://www.mhlw.go.jp/stf/houdou/0000174288_00001.html)

(3) 10 years after Lehman Shock, corporate profits up, but sales still not returning

Private credit-research company Tokyo Shoko Research has been analyzing the business results of over 260,000 companies across the country since 2007, before the Lehman Shock of September 2008.

Domestic corporate profits, if measured with their fiscal-year 2007 levels set as 100, plummeted to 18 in 2008 with the Lehman Shock.

Afterwards they recovered, and as of last fiscal year were at 162, in other words 1.62 times what they were before the crisis.

On the other hand, corporate sales, if measured with their fiscal-year 2007 level set as 100, had only reached 98 by last fiscal year, and so have not yet returned to their pre-crisis level.

This shows that, while domestic markets have been shrinking and sales have had difficulty growing with a decreasing population, companies have been putting effort into recovering profits through pushing down fixed costs such as the cost of labor.

“Survey of ‘post-Lehman-Shock corporate business results’ 10 years after Lehman Shock” linked below (in Japanese):

[http://www.tsr-net.co.jp/news/analysis/20180913\\_01.html](http://www.tsr-net.co.jp/news/analysis/20180913_01.html)

(4) Number of foreign residents higher than ever before

According to preliminary figures released by the Justice Ministry, the number of resident foreign nationals as of June 30, Heisei 30 [2018], was 2,637,251.

This is an increase of 75,403 individuals, or 2.9%, over the end of the previous year, and the highest figure ever.

“Regarding the Number of Resident Foreign Nationals as of the End of June, Heisei 30 (preliminary figure)” linked below.

[http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04\\_00076.html](http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00076.html)

(5) Health Insurance Society for Temporary Workers in Japan (*Haken Kenpo*) to disband; approximately 500,000 enrollees to join *Kyokai Kenpo*

With the financial situation worsening on account of the progressively ageing population, and health-insurance societies disbanding one after another, the Health Insurance Society for Temporary Workers in Japan, which enrolls dispatched workers and their families, has also decided to dissolve itself at the end of this fiscal year.

The approximately 500,000 people enrolled will be switched over to the state-subsidized Japan Health Insurance Association (*Kyokai Kenpo*), making them the largest group to switch over since *Kyokai Kenpo* was founded.

Out of the approximately 1400 health insurance societies in Japan, which enroll employees at large companies or in particular industries, about 40% were “in the red” as of April 2017, due among other things to the cost of covering elderly people’s health care.

The Ministry of Health, Welfare and Labor states that, due to this, the national government subsidy to *Kyokai Kenpo* may have to increase by about 10 billion yen.