



Labor Update No.45 October 22nd, 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) Labor Policy Council divided over measures against sexual and power harassment

The Employment Environment and Equality Subcommittee of the Labor Policy Council in the Ministry of Health, Welfare and Labor has begun real debate on measures to counter sexual harassment and “power harassment”.

Debate has been held over concrete forms of legislation. The labor side asserted that the current system is not enough to provide relief, and that there ought to be comprehensive regulations made to ban all acts of harassment.

On the other hand, the employers’ side showed reluctance to make any new legislation either about power harassment or sexual harassment, so the gap between labor and management was obvious.

The Subcommittee will continue discussions, and plans to put out a final report by the end of the year.

“6th Meeting of Labor Policy Council (Employment Environment and Equality Subcommittee)” linked below (in Japanese):

https://www.mhlw.go.jp/stf/newpage_01543.html

(2) Central Education Council discusses 45-hour overtime proposal for teachers: no penalties, some doubts

A special subcommittee of the Central Education Council, set up to discuss work-style reforms for teachers, held debate on a guideline proposal to set an approximate maximum of 45 hours a month of overtime work.

The aim is to keep working hours down, but the plan contains no penalties for violations, and some are doubting whether it will be followed in practice.

At the special subcommittee meeting, final figures were announced from the survey of teachers' work situations that was carried out by the Ministry of Education, Culture, Science and Technology in fiscal year 2016.

It is now clear that the monthly average of overtime work for public-school teachers was 59 hours in elementary schools and 81 hours in junior high schools.

Junior high schools' average figure reached the *karoshi* line (80 hours a month).

Debate also has started on a "modified working-hours system" that would manage teachers' working hours on a yearly basis. Committee members' opinions on this were divided.

"Special Subcommittee on Work-Style Reforms in Schools(17th meeting)" linked below (in Japanese):

http://www.mext.go.jp/b_menu/shingi/chukyo/chukyo3/079/siryo/1409717.htm

(3) Dispatch wage guideline presented for the first time: at least equal to statistical standard--MHWL

The Ministry of Health, Welfare and Labor has made proposed guideline criteria for wages to be paid to dispatch workers and presented them at a meeting of the Labor Policy Council.

When a dispatch company signs a labor agreement with a labor union, etc., the guidelines call for them to pay an amount calculated based on the level of wages in overall statistics for the same type of job, with other factors included according to such things as experience and work location.

This appears to be the first time the government has presented any guideline for dispatch workers' wages.

As to which government statistics will be used by dispatch companies, they will be able to choose either the Basic Survey of Wage Structures or the Report on Employment Service.

A standard amount, expressed as an hourly wage, will be decided for each type of work and will have other factors applied to it to produce a guideline figure.

In cases where there is no corresponding work category, MHWL will make use of what they can. After discussion at the Labor Policy Council, a plan will be finalized within the year, with an aim to put it into effect starting in April of 2020.

"11th Meeting, Labor Policy Council linked below (in Japanese):

https://www.mhlw.go.jp/stf/shingi2/0000176596_00005.html

2. Legal Violations/Struggles

(1) With “three-year rule” deadline approaching, consultations over dispatch dismissals (*haken-giri*) come one after another--barriers to direct employment

Until the amended law that came into effect September 30, Heisei 27 [2015], dispatch employees in 26 types of jobs (such as secretaries, translators etc.) could continue working in the same post with no time limit.

After the new law took effect, the maximum period a dispatch worker could work in one post became three years across the board.

Once three years have passed, after a union’s opinion is heard, there is a choice of either working in a different post, or being directly hired by the dispatch-client company.

The dispatch company can also send a different dispatch worker to work in the same post at the client company.

However, the barriers to direct employment are high.

In the case of direct hire, it seems that dispatch companies often seek to be paid 30% of the dispatch worker’s yearly pay by the client company as an “introduction fee”.

(2) “Pay my 2.42 million yen of overtime”--public elementary-school teacher sues

A teacher at a public elementary school in Saitama has filed suit against the prefecture seeking payment of unpaid wages.

He claims it is illegal that he is not paid any overtime allowance, no matter how many extra hours he works.

The person who filed the suit is a man who has worked as an elementary-school teacher in Saitama for 37 years.

He claims that it is illegal that no allowance is paid to public-school teachers despite them having no choice but to work long hours of overtime.

He is seeking payment of 2.42 million yen as unpaid wages. The man says he worked an average of 60 hours’ overtime per month.

(3) All municipal elementary and junior-high schools in Gifu lack “3-6 agreements” for office staff

No city, town or village elementary or junior high school within Gifu Prefecture has made a so-called “3-6 agreement” (*saburoku kyotei*), the labor agreement necessary in order to require overtime work, with their office employees.

This has become clear through a survey done by the prefectural Board of Education.

The prefectural Board notified each municipal Board in mid-August that they should sign such agreements.

(4) Suit against dismissal just before permanent contract: Nippon Tsuun preparing to fight

A man who worked as a contract employee at the Kawasaki branch of Nippon Tsuun (Nittsu, Nippon Express) has filed suit, claiming he was dismissed the day before he would become able to switch to a permanent contract. The company says they “will fight”.

The man stated that “I hope the company will stop letting people go who are necessary in the workplace just because they don’t want to switch to permanent contracts.

There are many people in society who are in the same position as me”.

(5) Discretionary labor system totally scrapped at Mitsubishi Electric; government aims to expand it

Mitsubishi Electric employs many engineers.

Over 80% of those eligible for the discretionary labor system there were in specialist fields; the rest were in planning work.

The system was scrapped for both groups in March.

Kenichiro Yamanishi, former president of Mitsubishi Electric (now Special Advisor), is the vice-chair of Keidanren.

The coming to light of the overwork suicide of a discretionary-labor worker at the company, and the scrapping of the system, are likely to make a stir.

(6) Tohoku U. staff union seeks re-hiring after dismissals--university refuses

On the issue of the so-called “layoffs” at Tohoku University, where non-regular staff had their contracts terminated in March of 2018, the Tohoku University staff union demanded on September 27 that the staff be re-hired, but the University refused.

On September 27, ahead of negotiations with the University, the staff union at Tohoku University collected more than 8,000 signatures on a petition calling for the dismissals to be withdrawn.

Tohoku University had terminated the employment of 282 people in March, 2018, before they could go over 5 years on the job.

They have also indicated they plan another wave of layoffs at the end of this school year.

At negotiations on September 27, although the University accepted the petition with the 8,000 signatures, they refused to re-hire those staff who were already laid off, or to change their plan for even more dismissals.

The staff union says they will proceed with plans for a lawsuit.

(7) NHK loses suit over refusal of CB with money-collection staff: Tokyo District Court recognizes them as “workers covered by the Labor Union Act”

In the case that was fought over whether NHK’s collection staff (regional staff) counted as “workers” under the Trade Union Act, Tokyo District Court has given a verdict recognizing their status as workers.

NHK’s position is that regional staff are not “workers”.

Although they would not recognize collective bargaining, they did consider the union as a “trade association” and engage in negotiations.

However, they refused to negotiate at one point in 2010, and this became a problem.

NHK has stated that “We regret that our claims were not upheld. We will examine the contents of the verdict carefully and decide what steps to take going forward”.

3. Situation/Statistics

(1) Fukutsu to stop Sunday pickups and deliveries as of October in the name of “work-style reform”

Fukuyama Tsuun (Fukuyama Transporting Co., Fukutsu) has announced that, as part of “work-style reforms”, they will discontinue making pickups and deliveries on Sundays.

They say the step is to be taken in consideration of labor shortages in the transport industry, “in order to continue providing safe, reliable transport service in the future”.

(2) Simultaneous interactive lessons to be treated as “present”: hospitalized children’s school participation

The Ministry of Education, Culture, Science and Technology (MEXT) has sent a notice to prefectural Boards of Education making it possible, when hospitalized children who must be absent from school a long time take lessons in real time from home or hospital via Internet, etc., to consider them “present” at school. Treating them as present will be up to principals to decide.

The notice calls it desirable, along with simultaneous interactive transmission of lessons, for teachers to visit hospitalized children on a regular basis in order to keep track of their studies and their life situation.

(3) World Women Foreign Ministers’ Meeting, Mr. Kono in the center: the only man in the picture--Canada

A meeting of the World Women Foreign Ministers, to which women foreign ministers from around the world were invited, was held in Montreal, eastern Canada, on September 21.

Foreign ministers from the Group of Seven (G7) countries also participated; Japan’s foreign minister, Mr. Taro Kono, attended at some of the functions.

Although it was a meeting of women foreign ministers, Mr. Kono, the only man in the commemorative photo, stood in the center surrounded by fifteen women.

Mr. Kono attended the meeting to promote the Abe administration’s positive position on raising the status of women.

(4) Toyota may add up to 1.5 million yen to yearly re-employment pay: increasing motivation for veteran engineers

It has become clear that Toyota Automotive is considering a new employment status, with improved conditions, for veteran employees re-hired after the retirement age of 60 to work as engineers on the assembly line.

The yearly pay will be increased by 1 million - 1.5 million yen compared to the current system in order to improve motivation. The company aims to introduce the new system in 202 after gaining the union's agreement.

With hiring of fixed-term employees becoming difficult due to labor shortages, Toyota hopes to improve the passing on of skills to younger workers through improving the conditions of re-hired veterans, leading to improved productivity in the long term.

(5) Female employment rate at 70%, non-regular employees increasing

In the Labor Force Survey for August released by the Interior Ministry on September 28, women's employment rate reached 70%.

It is the first time this has happened since comparable statistics became available in 1968.

As companies are actively seeking people amid labor shortages, the number of women working as non-regular employees, who can choose their working hours more easily, is increasing.

The employment rate, representing the percentage of women of working age (15-64) who are working, was 70.0%, which was 2.1 points higher than the same month of the previous year.

Looking at employed persons (excepting executives) by employment type, the number of regular employees was 11.49 million, or 220,000 more than the same month of the previous year, while that of non-regular employees was 14.54 million, or 630,000 more than the same month of the previous year. The number of non-regular employees showed a large increase.

"Labor Force Survey (Basic Statistics), August, Heisei 30 [2018]" (published Sep. 28, 2018) linked below (in Japanese):

<http://www.stat.go.jp/data/roudou/sokuhou/tsuki/index.html>

"Labor Force Survey (Basic Statistics), August, Heisei 30 [2018]: Summary of Results" linked below (in Japanese):

<http://www.stat.go.jp/data/roudou/sokuhou/tsuki/pdf/201808.pdf>