



Labor Update No.48 December 6, 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) Submitted documents, “Social Security Council Pension Subcommittee 6th Meeting”

The documents submitted by the Ministry of Health, Welfare and Labor Pension Bureau to the 6th meeting of the Pension Subcommittee of the Ministry’s Social Security Council, held on November 2, have been released.

They hint in the direction of a “lifetime work” policy to have people “work as long as they can, then finally get a pension when the time comes”.

But the mention of “undertaking deliberations toward the realization of a universal insurance system for all working people” is worth paying close attention to.

“Changes in Employment and the Pension (the Extension of Old Age, the Expansion and Diversification of Employment and the Pension System)” linked below (in Japanese):

<https://www.mhlw.go.jp/content/12601000/000377619.pdf>

(2) Foreign workers’ health insurance to cover only family members living in Japan: MHWL considering

With the increasing intake of foreign workers to come, the Ministry of Health, Welfare and Labor has begun considering the idea of limiting public medical insurance (health insurance) for company employees to cover dependent family members only if they live in Japan.

Some have pointed out that “public medical insurance must be equal, regardless of the enrollee’s nationality.

If *de facto* disparities arise between Japanese and foreign nationals in the running of it, that would be a problem”.

(3) “Work-style reform in schools” final draft outline submitted

The Central Education Council’s Council on Elementary and Secondary Education, “Special Subcommittee on Work-Style Reform in Schools”, has held their nineteenth meeting, at which a draft outline was submitted for what will be its final report.

In regard to getting teachers’ long working hours under control, which has become a social issue, the report proposes a “yearly variable working hours system”.

It continues to take the position of sticking firmly to the Special Measures Law (Act on Special Measures Regarding Salaries, Etc., of Teaching Staff in Compulsory-Education Schools, Etc.), whose “fixed overtime allowance”, disconnected from reality, has been pointed out as being the fundamental problem.

“Special Subcommittee on Work-Style Reform in Schools (19th Mtg.) Handout Documents” linked below (in Japanese):

http://www.mext.go.jp/b_menu/shingi/chukyo/chukyo3/079/siryo/1411051.htm

(4) “Power harassment” prevention measures to be made compulsory on companies: MHWL plans on legislation

In order to prevent workplace “power harassment” (*pawahara*), the Ministry of Health, Welfare and Labor has settled on a plan to make it legally mandatory for companies to take preventive measures.

Representatives of business oppose this, saying it will be difficult to draw a line between harassment and “guidance”, but the Ministry has decided that in order to put a stop to the growing damage from *pawahara*, legislation will be necessary.

This will be done by amending an existing law.

The intent is to make a decision within the year on which law this is to be; under consideration, among others, is the Industrial Safety and Health Act that protects workers’ health and safety.

2. Legal Violations/Struggles

(1) *Pawahara* industrial accident at Hitachi subsidiary: 145 hours' overtime, kicked chair

Takaoka Labor Standards Inspection Office (Takaoka City, Toyama Prefecture) has granted industrial-accident recognition to a man in his 20s, an employee of Hitachi Ltd., who was seconded to a subsidiary and contracted a psychiatric disorder there, saying the cause was overtime work of more than 100 hours in a month and power harassment (*pawahara*).

The man consulted with an industrial doctor in the workplace about the long hours and the harassment, seeking improvements, but says that even after that there were no noticeable changes.

The PR and IR department of Hitachi Ltd commented to reporters that "we take the industrial-accident recognition very seriously, and will continue taking thorough care of our employees' health".

(2) High school vice-principal's family sues, saying his suicide was "caused by overwork and *pawahara*"

Bereaved family members of the male vice-principal of Osaka Ryokuryo High School, in Fujiidera City, Osaka Prefecture, will soon file suit in Osaka District Court against Tanioka Gakuen Educational Corporation, which runs the school.

They claim that the man's suicide was caused by his extremely long working hours and by harassment from his superiors. The man served as vice-principal starting in the 2015 school year.

After participating in the teachers' party at the end of March this year, he committed suicide on school grounds.

Since becoming vice-principal, he had come to work at 6:30 in the morning almost every day from Mondays to Saturdays, and go home at 10:00 P.M.

In the one month immediately before his death, he worked a total of 215 hours of overtime, well over the 160 hours that is the Ministry of Health, Welfare and Labor's standard for recognizing a cause-and-effect connection between overwork and mental disorders.

Furthermore, according to the report of the special inspection carried out by the school corporation after the man's suicide, he was frequently subjected to "oppressive and unnecessary micromanagement" such as being called to briefings multiple times per day by the new principal, set to take the office in April this year, and the executive director.

(3) Compensation for *pawahara* suicide finalized at 55 million yen, company's appeal rejected: Supreme Court

In the case of a woman who committed suicide, and whose parents sued her employer, a fruit and vegetable intermediate wholesaler in Nagoya City, for 64 million yen damages claiming the cause was workplace "power harassment", the Supreme Court (3rd Petty Bench) has decided to reject the company's appeal.

They have upheld the second trial judgment that recognized the cause-and-effect relationship between the *pawahara* and her suicide and ordered the company to pay 55 million yen damages.

3. Situation/Statistics

(1) Layoffs at Hello Work? Non-regular staff frightened; warped appointment system is behind it

"Non-regular staff at Hello Work are working while in fear of being laid off", says a man who worked for ten years doing consultation duties at Hello Work (the public employment security office) before suddenly losing his job.

Most non-regular employees at national government offices are covered by a unique rule whereby they have to re-apply for their publicly-advertised jobs once every three years, so *de facto* dismissals are said to be rampant.

The staff who support job-seekers are themselves worried about their precarious employment.

Most of the non-regular staff working at Hello Work are employed as "limited-term duty staff".

Their term of employment is one year, in principle renewable only twice.

If they wish to continue in the job, then once every three years they need to apply for the job offer posted in Hello Work and re-take the employment test.

Because of this, they end up competing in a publicly advertised test against their own colleagues and even against ordinary job-seekers whom they are in charge of supporting.

The man says that "the spring job-advertisement season approaches, the eligible staff members are too worried to get work done.

Hello Work turned out to be the 'employment insecurity office'".

Public servants are covered by different laws from those that apply to the private sector, and they are exempted from the rule on switching to unlimited-term employment.

People well-versed in labor law point out that “the Labor Ministry ought to act as an example for the private sector.

For them to leave their own non-regular staff in such a precarious position is a major moral problem.

The number of jobs filled with limited-term appointments should be kept to a minimum”.

(2) LGBT partners to gain public recognition: Yokosuka City to introduce system in May of next year

It has become known that Yokosuka City, Kanagawa Prefecture, will be introducing a “partnership system” in May next year to give sexual-minority (LGBT) couples official recognition equivalent to marriage.

Mayor Katsuaki Kamiji clarified this to reporters.

His plan is to make the system not based on a municipal ordinance, but rather on a “guideline” that can be decided by the head of local government without requiring a city council vote.

The details of the system are yet to be considered. Mayor Kamiji stated, “I hate and oppose all types of discrimination. I hope this can be a first step towards building a society that will be easy to live in for everyone.”

Every year on May 17, meetings are held in various places to discuss sexual diversity, and Mayor Kamiji has said he “would like to time the introduction of the system for May 17”.

(3) Nichibenren releases written opinion on Immigration Act amendment: “Technical Internship system ought to be abolished at once”

The Japan Federation of Bar Associations (Nichibenren) has publicly released an opinion document relating to the proposed amendment to the Immigration Control Act that aims to expand the intake of foreign workers.

The paper points out problematic aspects, such as that “the Technical Internship system ought to be abolished”, that “we must do away with brokers in the home countries”, and that “once they have stayed longer than a certain length of time, they should be allowed to bring their families”.

The opinion is posted on Nichibenren’s homepage.

https://www.nichibenren.or.jp/library/ja/opinion/report/data/2018/opinion_181113.pdf

(4) 80% of dispatch workers don't know the meaning of "equal pay for equal work": awareness of real effects on themselves lacking

"Equal pay for equal work" was included in the "work-style reforms" for the purpose of resolving disparities between regular and non-regular employees.

But 80% of dispatch workers don't know well what it means, according to results of a survey by staffing company En-Japan.

The main causes are:

(1) that they do not understand how "equal pay for equal work" relates to themselves; (2) that they are not able to imagine concretely how their lives will change after the law comes into effect; and (3) that they cannot see what the companies (dispatching companies) are doing about it.

Summary of results of "En-Japan Dispatch" user questionnaire linked below (in Japanese):

<https://www.atpress.ne.jp/news/171112>

(5) Justice Ministry announces mistake in results of their investigation of missing interns: "low pay" accounts for 67% of reasons

Related to the proposed amendment to the Immigration Control Act, etc., that aims to expand the intake of foreign workers, the Justice Ministry has now announced to government and opposition parties that there was a mistake in their investigation results on Technical Interns who went missing.

The motivation for running away was said to be "to seek higher pay" in about 87% of cases, but the new results have "low pay" accounting for approximately 67%.

The Ministry explained this as a calculation error.

However, there have been questioning voices not only from the opposition, but even from within the governing party.