



Labor Update No.49 Dec. 17, 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) Legislation for continuing employment until 70 specified: Future Investment Conference makes interim report on new growth strategy

The government has put together an interim report on its new growth strategy at a joint meeting of the Future Investment Conference and others. Regarding the age of continuing employment at companies, currently until 65, the report says they will “proceed smoothly with ensuring the opportunity to work until 70”. It specifies clearly that a legal framework will be put in place in stages, while still recognizing the freedom of companies and individuals.

The current age to begin receiving a public pension is set at 65 in principle, and this will not change. But the range of choice in when to begin receiving the pension will be widened, so that individuals wishing to do so may delay receiving payments until after 70 and then collect increased payments.

“Council on Fiscal and Economic Policy, Future Investment Conference, Town-People-Work Creation Council, and Regulatory Reform Promotion Council Joint Meeting: Documents Distributed” linked below (in Japanese):

<http://www.kantei.go.jp/jp/singi/keizaisaisei/miraitoshikaigi/dai22/index.html>

(2) MHWL: “Do not lower regular employees’ salaries”--policy on Equal Pay for Equal Work

Concerning “Equal Pay for Equal Work”, the rectification of unreasonable disparities in conditions between regular and non-regular workers, the Ministry of Health, Welfare and Labor has shown their guidelines to a subcommittee of the Labor Policy Council, which is an advisory body to the Minister, and had them accepted. The guidelines are for what will be expected of companies. As well as making base pay, overtime and other allowances paid to non-regular workers the same in principle as those for regular employees, it clearly indicates that lowering regular workers’ conditions to that of the non-regular workers will be “not desirable” as a method of solving disparities.

The guidelines called for companies to pay, in principle, the same amount in base pay

and bonuses as to a regular employee, provided their length of time in the job, their abilities and their performance are the same. However, if regular employees are the only ones who can be relocated or transferred, then a difference in base pay will be allowed.

Other sorts of allowances, such as transport allowances and business travel expenses, meal allowances, etc., are also supposed to be the same. Also, benefits provided--such as use of break rooms or changing rooms, company apartments, etc.--are supposed to be provided equally. On the other hand, in regard to severance pay, housing allowances, family allowances, etc., the guidelines only state that "the elimination of conditions recognized to be unreasonable shall be sought".

"15<sup>th</sup> Meeting, Labor Policy Council (Occupational Security Subcommittee/Employment Environment and Equality Subcommittee, Equal Pay for Equal Work Section)" linked below (in Japanese):

[https://www.mhlw.go.jp/stf/shingi2/0000176596\\_00009.html](https://www.mhlw.go.jp/stf/shingi2/0000176596_00009.html)

## **2. Legal Violations/Struggles**

(1) University hospitals with "unpaid doctors" total 34 in the past 5 years

A survey result has come to light showing that the number of university hospitals that have had so-called "unpaid doctors", who practice medicine in the medical setting but receive no pay, within the last five years reaches at least a total of 34. Up until now, the national government has claimed that unpaid doctors did not exist. But now the Ministry of Education, Culture, Sports, Science and Technology, which has jurisdiction, has commented that "if this is true, we believe a check is necessary".

The arrangement had continued for a long time in university hospitals, among other places, under the pretense of training young doctors. But with the repeated overwork deaths of doctors, it was reconsidered. As of Heisei 24 (2012), the government claimed that the system no longer existed.

However, in answer to a survey of 431 doctors conducted online in the form of a questionnaire by a private company, 198 of the doctors--over half--responded that they "had experienced being an unpaid doctor".

On top of this, the university hospitals to which these unpaid doctors had belonged included 16 at national universities, four at other public universities, and 14 at private universities, for a total of 34 hospitals.

Also, 70% of the unpaid doctors were not enrolled in *Shakai Hoken* (employees' health and pension insurance) or in *Koyo Hoken* (employment insurance).

(2) Alarm sounded on Immigration Act amendment: "End the technical internship system, and regulate brokers"--poor conditions include hourly wage of 300 yen

A lawyer who deals with the problems of foreign technical interns has held a press conference at the Foreign Correspondents' Club of Japan, asserting strongly that "The new system for intake of foreign workers must be made on condition of abolishing the technical internship system".

The lawyer pointed out that "more than a few foreign technical interns are working for an hourly wage that falls below the minimum wage".

Foreign reporters were heard to ask what the lawyer would like to change in the bill.

The lawyer responded that "on making the new system, we ought to scrap the technical internship system", and furthermore pointed out that "the system that will be based on this bill has no thought given to regulating private brokers. This is a major problem". As well as making restrictions on brokers in the home countries, he also asserted the need for restrictions on the broker system here in Japan.

(3) Public health insurance wavers in its "equality"--foreign nationals pay too, but... plan to limit family use to "those living in Japan"

On the issue of the government's plan to expand the intake of foreign workers starting in April of next year, there is starting to be a focus on what should happen to public health insurance. Voices are being raised calling a revision of the system, prioritizing fears of increasing medical costs and of cheating. The "principle of equality" regardless of nationality may waver.

The government is considering an idea to limit dependent family who can use the insurance, including for Japanese nationals, to "those living in Japan".

If the only dependent family members who can use the insurance are those who live in Japan, then although most Japanese workers' families can benefit, foreign workers on special-skills visas and others, not allowed to bring family to Japan, will see their families not covered by insurance.

Against this, there is a strong point to be made that "if one is to demand the same insurance premiums from all, there must not be a disparity in service".

(4) Fukuoka Superior Court finds illegal disparity in conditions for temporary worker at UOEH Hospital, orders compensation

In the case of a woman employed as a temporary office staff member at the university hospital of the University of Occupational and Environmental Health, who had sued the University for compensation claiming that the disparity in pay between her and the regular staff was against the Labor Contract Law, Fukuoka District Court has judged on appeal that "the disparity in treatment is unreasonable and illegal". The Superior Court has overturned the initial ruling by the Fukuoka District Court, which had rejected the claim, and has ordered the University to pay approximately 1.13 million yen.

The judge pointed out that "Although the woman has worked in the job for over 30

years, and has become skilled at it, base pay for regular staff hired at the same time is about twice as much as hers". The court ordered payments of 30,000 yen per month for the period since April of 2013, when unreasonable disparities in treatment between regular and irregular employees were forbidden by an amendment to the law.

(5) Actual work conditions difficult to see: 40% of private high schools have no labor agreement

It has become clear that the number of private high schools that do not have a labor-management agreement to set the rules for overtime, etc. (3-6 agreement, *sabu-roku kyotei*) is at least 151 nationwide. It has also come to light that, within the five years up to last year, a total of 24 schools had cases of receiving citations or guidance from Labor Standards Inspection Offices for illegal overtime based on the lack of an agreement. The state of labor management at private schools has always been difficult to see compared to public schools. But it seems some insight into it has now been gained.

A survey has discovered that 151 high schools, or over 40% of those responding, had not signed a 3-6 agreement, which is required in order to have teachers work overtime. Furthermore, in the immediately preceding 5 years, 78 schools had received on-site inspections from a Labor Standards Inspection Office, and 24 of these had received citations or guidance for having illegal overtime due to not having such an agreement.

"3<sup>rd</sup> Questionnaire Survey Report Regarding Work-Hours Management of Private-School Teachers" linked below (in Japanese):

[http://sikeiken.or.jp/report/h28\\_no3\\_jikankanri.pdf](http://sikeiken.or.jp/report/h28_no3_jikankanri.pdf)

(6) 1,000 foreign workers laid off at Kameyama factory: 3<sup>rd</sup>-level subcontractor for Sharp

It has come to light that one thousand of the foreign workers of Japanese descent who had worked at Sharp's Kameyama factory were laid off at the start of this year. They had very short-term contracts that were repeatedly renewed, but they seem to have been non-renewed this time due to Sharp's reducing production. The unstable condition of foreign workers has been thrown into sharp relief.

The labor union Union Mie received consultations one after another from the laid-off foreign workers, of whom about 40 became members.

### **3. Situation/Statistics**

(1) Illegalities in 40% of emergency hires of foreign workers: substandard pay, overwork

In regard to foreign workers taken on as emergency hires in the construction industry to ease a labor shortage in preparation for the 2020 Olympics, the Ministry of Land, Infrastructure and Transport found on doing on-site inspections in 2017 of the companies employing them that 40% of these workplaces had problems with wage

payments, such as paying less than the required standard of “at least as much as a Japanese worker”. It can be seen that the system meant to protect foreign workers’ work environment is actually lacking in effectiveness.

The Ministry calls the inspection results “an internal document meant for giving administrative guidance to companies”, and has not published them.

(2) World wage growth rate in 2017 was 1.8%, its lowest in about 10 years: ILO

According to the Global Wage Report published on the 26<sup>th</sup> by the International Labor Organization (ILO), the global wage growth rate in 2017 was 1.8%, a decline from the 2016 figure of 2.4%, and its lowest level since the global financial crisis of 2008.

The ILO stated in the report that “it is now widely known that low levels of wage growth are an obstacle to achieving sustained economic growth”.

According to the report, average real wages in developing countries belonging to the G20 (group of 20) have approximately tripled over the past 20 years, while those in developed countries in the G20 have only risen by 9%.

Global Wage Report 2018/19 linked below (in English):

[https://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS\\_650551/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_650551/lang--en/index.htm)

(3) Kofu City to eliminate “sex” field from *inkan* registration certificate

The mayor of Kofu City, Yamanashi Prefecture, has announced that, starting on January 4 of next year, the “sex” field will be eliminated from the city’s *inkan* (personal seal) registration certificates. According to the City, it is the first municipality in the prefecture to take such a step.

Mayor Higuchi says the City “thought over its ideas to give consideration to human rights” in cases of people with gender identity disorder or of sexual minorities (LGBT). The proposed ordinance amendment will be submitted to the December regular meeting of the city council, to be held on December 5.

According to the city’s Community Services Division, the Interior Ministry notified municipalities nationwide two years ago that “it is allowable not to fill in a sex” in the “sex” field of an *inkan* registration certificate. Kofu City was the first to reconsider the certificates.

After the ordinance is amended, there will also be no need to fill in a sex on the application for registration of an *inkan* certificate or on the application for issuance.

(4) Women’s income in the U.S. half that of men, new study finds

A new study published on November 28 by American think-tank the Institute for

Women's Policy Research (IWPR) has shown that women's income in the U.S. from 2001 to 2015, considering such things as time taken off from work in order to care for family, etc., was about half that of men. This gap is much larger than had previously been supposed.

According to the study, women's income over this period, including times when they had no income, was 51% lower than men's.

The study found that women's average income from 2001 to 2015, after adjusting for inflation, was 29,000 dollars (about 3.3 million yen), which is an increase from the figure of 14,000 dollars for the period from 1968 to 1982, and that the gender gap in income had also shrunk. However, the likelihood of women taking leave from work for more than one year was twice that of men; and salaries, while working, of women who had taken one year's leave were on average 39% lower than those of men.

Institute for Women's Policy Research - "Women Earn Just Half of What Men Earn Over 15 Years" linked below (in English):

<https://iwpr.org/women-earn-just-half-of-what-men-earn-over-15-years/>