



Labor Update No.50 December 30, 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) Teachers' overtime only up to 45 hours per month: draft guideline for work-style reforms

At a meeting of the special subcommittee of the Central Education Council discussing work-style reforms for teachers, a draft guideline was presented that would in principle limit teachers' overtime work to a maximum of 45 hours a month. There was also a draft report presented on ways of shortening work hours; this included the introduction of a modified work-hours system, which would adjust working time on a yearly basis. The Education Ministry is planning to aim for amending relevant laws within next fiscal year.

In regard to establishing penalties--on the basis that the draft report said "care should be taken" with this--the draft guideline indicated a policy of not setting any.

The guideline noted the position that, under the current Special Measures Law for Teacher Salaries (*Kyu-Toku-Ho*), whereby provision of overtime allowances for teachers is not permitted, the majority of overtime being considered as voluntary labor leads to "spreading of the perception that work-hours management is not necessary". However, it made no step toward any fundamental revision.

"Special Subcommittee on Work-Style reform in Schools (20th mtg.) Meeting Documents" linked below (in Japanese):

http://www.mext.go.jp/b_menu/shingi/chukyo/chukyo3/079/siryo/1411603.htm

"Guidelines Relating to Upper Limit on Work Hours for Public School Teachers" proposal:

http://www.mext.go.jp/b_menu/shingi/chukyo/chukyo3/079/siryo/_icsFiles/afieldfile/2018/12/06/1411603_2.pdf

(2) Immigration law passes upper-house plenary session, is approved

The amended Immigration Control and Refugee Recognition Act has passed. It is planned to take effect starting on April 1, 2019, and the government expects to let in

up to 345,150 people in 14 industries over five years beginning with the 2019 fiscal year.

The amendment bill is centered on the creation of a new status of residence for “Specific Skills”. Residence statuses for the purpose of work, which had been restricted to “high-level specialist personnel” such as doctors and lawyers, will be extended into the field of unskilled labor. In regard to “Specific Skills #2”, which would recognize workers as having advanced skills, this is expected to be put on *de facto* hold for some time after the system begins.

(3) Foreign workers’ industrial accidents: reporting of nationality and residence status to be made compulsory

The government is beginning to work seriously on coming to grips with the real situation of foreign workers in industrial accidents.

They will be requiring employers to report the “nationality or region of origin” and “status of residence” of any foreign worker injured or killed in an industrial accident, in the hope that this will lead to building an environment where foreign nationals can work in safety. The Labor Safety and Health Regulations will be amended within the year, and the new rules will come into effect starting in January of next year.

Under the current rules, when a worker has been off work due to an injury suffered at work, or has died, employers are required to report to a Labor Standards Inspector how the accident occurred and what the cause was.

There is no need to report the worker’s nationality or residence status. If the worker seems to be foreign based on their name, the Labor Standards Office may use their own judgment to check the person’s nationality or identity individually.

If it is found that there are types of accident that people of certain nationalities are particularly likely to fall victim to, then it is expected that measures will be taken such as publishing safety manuals in that country’s language.

(4) Legislation to require companies to prevent *pawahara*: Labor Policy Council approves report

The Ministry of Health, Welfare and Labor has presented a report at the Labor Policy Council on measures to be taken to prevent workplace “power harassment” (*pawahara*), and had it approved. Requiring companies by law to take preventive measures was found to be appropriate. It is expected companies will be required to make disciplinary rules, etc., for those who commit harassment.

The Ministry is aiming to draw up a bill based on the report, and submit it to the regular session of the Diet in 2019. Their intention is to amend the Comprehensive Labor Measures Promotion Act to include prevention rules.

Regarding the definition of *pawahara*, it was defined as fulfilling three criteria: (1) being based on a relationship of dominance; (2) exceeding the range of what is necessary for work duties; and (3) causing physical or mental suffering. If bosses use needlessly abusive words to their subordinates, this is likely to be recognized as *pawahara*.

There are currently no legal regulations on this type of harassment. As it became more of a social issue, a judgement was made that strengthened regulations were necessary.

“Concerning the Promotion of Women’s Active Participation in Working Life and What Measures Should be Taken to Prevent Harassment in the Workplace (proposal)” linked below (in Japanese):

<https://www.mhlw.go.jp/content/000454577.pdf>

2. Legal Violations/Struggles

(1) Are foreigners “easy-to-use parts”? 2,900 people let go at Sharp Kameyama factory, complaint filed at Labor Bureau

Approximately 2,900 foreign workers who had worked at Sharp’s Kameyama factory (Kameyama City, Mie Prefecture) were laid off one after another at the beginning of this year. Labor union Union Mie filed a complaint against the dispatching company at the Mie Labor Bureau, alleging the company had violated the Occupational Security Act among others, and held a press conference at the Ministry of Health, welfare and labor in Kasumigaseki, Tokyo. Referring to the foreign workers, they pointed out that “at some point, the company seems to see them less as human beings than as materials”.

When the union was asked about the proposed amendment to the Immigration Act that would expand the numbers of foreign workers accepted, the union stated that “if large numbers are to be newly taken in, we have worries about their human rights. It is plain to see that they are being made to work in very poor conditions”.

(2) Amend the “Special Measures Act” that makes teachers work long hours: petition submitted with 32,500 signatures of active-duty teachers and others

Seeking amendment of the “Special Measures Act” that stipulates no overtime allowance be paid to public school teachers, a group of currently-serving teachers and education specialists along with others including bereaved relatives of those who died from overwork have submitted a petition with 32,500 signatures to the Education ministry and the MHWL.

Concerning work-style reform for teachers in schools, debate is currently ongoing in a special subcommittee of the Central Education Council. A draft report was submitted to the December 13th meeting of the Council, but it contained no concrete statements on the Special Measures Act.

(3) Finance Ministry nominated for 2018 “Black Companies” Award; also well-known companies such as Suruga Bank, Hitachi Ltd., and Monterosa

Nine companies across the country have been nominated for the 2018 “Black Companies” Award, which is given to companies that became infamous for their labor issues in that year.

The awards were announced by a “Black Companies” Awards Executive Committee composed of lawyers and journalists.

Despite not being a private company, the Finance Ministry received a special nomination in 2018. This is said to be due to the spotlight thrown on them by their sexual-harassment issue, involving a female journalist.

Other companies also nominated include a company where a discretionary-hours employee died from overwork due to long hours, a company that was said to give a “double whammy” of power harassment and long working hours, and a company said to have made foreign technical interns work under cruel conditions.

Companies and organizations nominated are as follows:

- ◆ Japan Business Labor
- ◆ The Ministry of Finance
- ◆ Mitsubishi Electric
- ◆ Hitachi Ltd./Hitachi Plant Services
- ◆ Japan Beverage Tokyo
- ◆ Nomura Real Estate
- ◆ Suruga Bank
- ◆ Goncharoff Seika
- ◆ Monterosa

(4) Union files grievance at Mie Prefectural Labor Commission over Sharp layoffs

Relating to the problem of the dismissals at Sharp, Mie Ippan Rodo Kumiai (Union Mie) has filed a complaint of unfair labor practices at the Mie Prefectural Labor Commission, claiming the dispatch company engaged in threatening acts. They say the company threatened them by hinting that there were “anti-social forces” (*i.e.* criminal groups) behind the union.

In the written petition, the union claimed that the dispatch company had been interfering in their work since about five years ago.

Union general secretary Hojo Hirooka claims that On July 31 of this year, he received several dozen intimidating phone calls, and that on October 6 he was threatened on the phone in the middle of the night by someone saying “Our young guys are all really angry at you”.

(5) Tokyo Superior Court verdict increases compensation amount in Japan Post non-regular workers' disparity suit

The Tokyo Superior Court has handed down a verdict on appeal in the case of three non-regular employees at Japan Post, who had sued the company claiming an illegal disparity in conditions (such as allowances) between themselves and the regular staff. The three had sued the company for the amount of the difference in pay. The initial judgment by the Tokyo District Court had found non-payment of some of the allowances to be illegal, and had ordered the company to pay approximately 900,000 yen in compensation. The Superior Court's ruling alters this by increasing the compensation amount to approximately 1.7 million yen.

In regard to year-end holiday work allowances and sick leave, the Tokyo Superior Court ordered the plaintiffs be treated equally to regular employees.

Of the eight allowances and two types of leave claimed by the plaintiffs, the initial ruling found the disparities in four of them--namely housing allowances, year-end holiday work allowances, sick leave, and summer and winter leave--to be illegal, and ordered the company to back-pay the difference. Both the plaintiffs and Japan Post appealed this ruling.

(6) "Is my work not worth paying overtime?" Public school teachers' appeal

The opening oral arguments in a suit filed by a male teacher at an elementary school in Saitama Prefecture, who sued the prefecture for approximately 2.42 million yen in unpaid wages on the basis that it was illegal for no overtime allowance to be paid for his overtime work, have been heard at the Saitama District Court.

Full text of the plaintiff's opinion statement linked below (in Japanese):

<https://www.bengo4.com/c/5/n/8987/>

3. Situation/Statistics

(1) Nursing workers coming to Japan total only 247: Japanese language requirement a hurdle

It has become clear that, since the government added nursing-care work to the foreign technical intern system in November of last year, the number of interns who have come to Japan over that year is only 247.

Nursing work, since it deals directly with people, requires interns to have a certain level of Japanese language ability. This is behind why the number of new acceptances has been sluggish.

This new qualification aimed to take in 5,000 people in the first year, growing to 50,000 or 60,000 by the fifth year. But there is competition with other countries for personnel, and prospects are harsh.

(2) “The wall finally comes down”: Kumamoto City introduces partnership system--welcoming voices from LGBT community

On December 4, when Kumamoto City announced the introduction of a “partnership system” to give public recognition to sexual-minority (LGBT) couples, a welcoming response was heard from affected people and from their supporters. On the other hand, some were also of the opinion that “with no legal guarantee, a system alone is not enough”, calling for awareness-raising and efforts to bolster the system. Some also point out that “the system has no legal effect, so it is not as if all is solved. There are still problems, such as the lack of inheritance rights”.

(3) International cooperation on immigrants’ human rights: UN-led conference to adopt first written statement

An international conference discussing how to deal with immigrants--whose numbers have increased steeply along with those of refugees, and become a matter for worldwide concern--was held on December 10 in Marrakesh, Morocco, North Africa. Led by the UN, the conference plans to adopt the first-ever framework statement for international cooperation on this issue.

Japan has dispatched a government representative and will agree to the statement. But in addition to the U.S., which dropped out at the negotiation stage, some countries in Europe (such as Hungary and Poland, which have adopted harsh policies on immigration) have refused to, claiming it could endanger their own countries’ immigration policies. For this reason, it is becoming a point of contention just how many countries will participate in the conference and agree to adopt the statement.

https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_impact_for_migration.pdf