



Labor Update No.62 May 31, 2019

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) Bill to be submitted making it an option to begin receiving one's pension after 70--MHWL

In order to make it possible to choose an age over 70 to begin receiving one's pension, the Ministry of Health, Welfare and Labor has settled on a plan to submit a bill to next year's regular Diet session to amend relevant laws. To cope with the decline in the working-age population, the government is proceeding with development of an environment that will enable elderly people to continue working for a long time. Expanding the system of "delayed receipt" of pensions is a part of this.

- (2) Seven options indicated to companies for people to work until 70: government policy

To make sure every person who wants to work until age 70 will be able to do so, the government has come up with a policy of requiring companies to make efforts to create employment opportunities for elderly people. The aim is to make use of older people's will to work in alleviating the shortage of labor. But there are also worries that the policy may lead to people being made to work for low wages, or to increases in the number of workplace injuries.

The new system outline proposed by the government at the Future Investment Conference indicates seven options companies can choose in order to respond to the wishes of employees who want to work until age 70.

The first three of these--(1) to eliminate the retirement age, (2) to raise the retirement age, and (3) to re-employ people as contract employees, etc.--are those that companies are already required to choose from, under the current system, for people who want to work until 65. The government has now added more choices to the list.

There are four new additions: (4) to obtain re-employment for the person at a different company, (5) to provide funds for the person to work as a freelancer, (6) to provide support for the person to start a business, and (7) to provide funding for the person to do NPO work or other activities contributing to society. As for which of the total of seven options a company will actually choose, that will be decided by discussion between labor and management at each company.

For the time being, employment until 70 will be only a "duty of effort", with no

penalties for companies that fail to comply. However, after ascertaining what steps companies actually take, the government will in the future consider making it obligatory.

(3) LDP's "100-Year Life Headquarters" submits vision for social-security reform to the Prime Minister

The Liberal Democratic Party's "Strategic Headquarters for the Era of 100-Year Life" has submitted their "Social-Security Reform Vision for an Era of 100-Year Life" to Prime Minister Abe Shinzo. The proposal advocates "*Shakai Hoken* for all working people", meaning that everyone who works, regardless of their form of employment (whether regular or non-regular) would be enrolled in *Shakai Hoken*.

"Social-Security Reform Vision for an Era of 100-Year Life, a Vision for Social-Security Reform Compiled by the Strategic Headquarters for the Era of 100-Year Life" linked below (in Japanese):

https://jimin.jp-east-2.storage.api.nifcloud.com/pdf/news/policy/139588_1.pdf?_ga=2.70479192.916739373.1558433924-1619937458.1558433924

(4) Savings for the era of 100-year life: Financial Services Agency draws up draft outline recommending attitudes to saving at each age

As society heads into an era of 100-year lifespans, how will people extend their "assets lifespan", corresponding to the savings that will enable them to live a long time in retirement? On the 22nd, The financial Services Agency put together their first draft outline regarding this problem. It recommends mental preparation for ways of extending one's "assets lifespan" at each of three stages of life: in one's peak working years, just before and after retiring, and in one's old age. The outline contains the government's admission that public assistance, including the pension system, has its limits, and calls for "self-help" from the nation's people.

The government says that "maintaining the levels of pension payments is becoming difficult, and it will also be hard for companies to maintain the amounts of their severance pay". In regard to people's living expenses in old age, they say "the former model has become unable to work".

"Market Working Group, Financial Systems Council: 'Asset Formation and Management in an Aging Society' report (proposal)" linked below (in Japanese):

https://www.fsa.go.jp/singi/singi_kinyu/market_wg/siryoku/20190522/01.pdf

(5) "Power harassment" prevention law takes effect; to be compulsory on companies starting next April, but with no penalties

The amended Labor Measures Promotion Act, which makes it compulsory for companies to take prevention measures against so-called *pawahara* ("power harassment", *i.e.* workplace bullying), passed the plenary session of the House of Councillors on the 29th, becoming law. The amendment defines *pawahara* as "doing harm to the working environment by words and actions beyond the range of what is necessary for the work to be done, based on a relationship of dominance". It also forbids disadvantageous treatment, such as firing for reasons of having made a complaint. It will begin applying to large companies as soon as April of next year. The

addition of prohibitions with penalties had been sought, but this was put off for now.

(6) Guaranteeing chances for the elderly to work is central: MHWL's social-security policy

In order to achieve an all-generations social-security system, the Ministry of Health, Welfare and Labor has drawn up a concrete policy for improving social security with an eye to the year 2040, when the number of people in their peak working years will have plummeted. The central point of the plan is guaranteeing elderly people a chance to continue working.

As well as creating a new system whereby those who wish to can keep working until age 70, it also proposes improving workplace environments.

"Regarding the Summary Report of the Headquarters for Social Security and Work-Style Reform with an Outlook on 2040" linked below (in Japanese):

<https://www.mhlw.go.jp/content/12601000/000513520.pdf>

"Regarding the Summary Report of the Headquarters for Social Security and Work-Style Reform with an Outlook on 2040 (reference materials)" linked below (in Japanese):

<https://www.mhlw.go.jp/content/12601000/000513707.pdf>

(7) "To achieve 1,000 yen per hour in the early 2020s": LDP project team

A Liberal Democratic Party project team working on wage issues has put together a proposal "to achieve a nationwide weighted average [hourly wage] of 1,000 yen by as early in the 2020s as possible". The proposal calls for expanded support for small and mid-size companies as a premise for raising wages, and also includes eliminating wage disparities between men and women as well as thorough enforcement of "Equal Pay for Equal Work" (in other words, the policy that pay and conditions should be equal for those doing work of equal value).

2. Legal Violations/Struggles

(1) *Anime* production company that made "The Girl who Leapt Through Time" given citation: 393 hours worked in a month

It has come to light that *anime* production company Madhouse, a subsidiary of Nippon Television, has received a citation from the Shinjuku Labor Standards Inspection Office for (among other things) making employees work long hours in excess of the limit set in their labor agreement.

The company had signed a labor agreement setting the upper limit on overtime, even in busy periods, at 60 hours per month. However, the LSIO certified that one man had worked over 100 hours of overtime in a month. The company was paying a "fixed overtime allowance" that assumed a certain amount of overtime work. But the real hours worked were in excess of this, so there was recognized to be unpaid overtime.

There was at least one case where an employee worked a total of 393 hours in a month.

(2) Verdict says “termination of 3 professors invalid” at Shukutoku U.

Tokyo District Court has handed down a verdict in a lawsuit filed by three professors in unlimited-term employment at Shukutoku University, who had had their employment terminated by the University due to abolition of their department and had sued the Educational Corporation (Daijo Shukutoku Gakuen) claiming the firings were unfair. The three had sought confirmation of their status and payment of their salaries. The Court ruled that the terminations were invalid.

The Court judged in their decision that “the School Corporation did not make good efforts to avoid firing, nor did they attempt to engage seriously in explanation or negotiation”; and that, therefore, in regard to the termination of the three plaintiffs’ employment, “this was an abuse of the power of termination, lacking in social appropriateness, and so invalid”.

(3) Gunma U. professor commits academic harassment: University keeps it quiet, and refuses to explain details

It has become known that Gunma University found that a male professor in the Graduate School of Medicine committed academic harassment in Spring of this year against another man who belonged to the medical department. The University did not announce the finding itself, and refused to explain any details. They also failed to give any answer regarding whether the professor in question had received any penalty, or whether any compensation had been made to the man.

3. Situation/Statistics

(1) Elderly people’s work accidents on the rise: 26% over 60

Industrial accidents are increasing in number among the working elderly. In 2018, the number of workers over age 60 who met with accidents at work increased by 10.7% compared with the previous year, and accounted for one in four of all industrial accidents. The government has put forth a policy of making it obligatory for companies to make an effort to guarantee continued employment until 70 years of age. But creating a workplace environment where the elderly can work safely is becoming a problem that must be solved.

The number of workplace accidents that occurred in 2018, as announced by the Ministry of Health, Welfare and Labor, was 127,329. this was an increase of 5.7% over the previous year’s figure. Of those involved, 33,246 people were over 60 years old, accounting for 26.1% of the total. Ten years before, in 2008, this proportion was 18.0%.

The total number of workers over 65 was 8.75 million, up 3.09 million from ten years before, and accounting for 12.8% of the total workforce population.

(2) A record number of 2,847 foreign workers suffer industrial accidents: figure doubled since ten years before

Last year, the number of foreign workers who were either injured or killed in

workplace accidents reached a record high of 2,847, increasing by 14.2% compared to the previous year, according to a survey by the Ministry of Health, Welfare and Labor. The number of foreign workers injured or killed in industrial accidents has risen every year for seven years in a row, and doubled compared to ten years before (when the number was 1,443).

“Heisei 30 [2018] Analysis of the Situation of Industrial Accidents” linked below (in Japanese):

<https://www.mhlw.go.jp/content/11302000/000509813.pdf>

(3) Gender dysphoria to be removed from the category of “psychological disorders”: WHO

At the WHO (World Health Organization) General Meeting being held in Geneva, Switzerland, an agreement has been reached to remove gender dysphoria (in which a person’s psychological or emotional gender identity does not match their bodily sex) from the category of “psychological disorders”. It remains to be seen whether the discrimination faced by people experiencing gender dysphoria will be eliminated, and whether this will lead to understanding in society.

(4) Japan Chamber of Commerce and Industry expresses opposition to raising the minimum wage: “a direct impact on small and mid-size businesses”

The Japan Chamber of Commerce and Industry (JCCI) has submitted a request to the MHWL and the Liberal Democratic Party expressing opposition to the government’s policy of pushing for a raise in the minimum wage. At the Council on Economic and Fiscal Policy, opinions have been heard in favor of moving soon to an hourly wage of 1000 yen. But the JCCI insists that “a large increase will have a direct impact on management at small and mid-size companies, and even put them at risk of being unable to continue in business”.

JCCI claims in their request paper that “despite having little money left to pay, they are being forced to raise wages more than they are able” and “from all over the country voices can be heard nearly screaming”.

RENGO conducts survey on harassment: gives clearer picture of people leaving jobs due to *pawahara*, and of the situation of sexual harassment of job-seekers, etc.

The Japan Federation of Trade Unions (RENGO) has carried out a survey titled “Situation Study Regarding Harassment in the World of Work, 2019”. The survey totals data from an effective sample of 1,000 employed persons nationwide, male and female, aged 20 to 59 (excluding those who started their own business, business managers, and self-employed persons).

This survey, in addition to the eight categories of workplace harassment listed below, also looked into the situation of sexual harassment against those seeking jobs.

- (1) Physical attacks, including violence, bodily harm, etc.
- (2) Mental attacks, including threats, defamation, insults, abusive words, etc.
- (3) Being cut off from human relations, such as by isolation, exclusion from the group, being ignored, etc.

- (4) Excessively large demands, such as being forced to do tasks that are clearly unnecessary for the conduct of the job, or are impossible to accomplish
- (5) Excessively small demands, such as being ordered to do work of a much lower level than one's ability or experience with no logical work-based reason, or not being given any work to do
- (6) Infringement on individuality, such as by intruding excessively in private matters
- (7) Sexual harassment
- (8) Other harassment (other acts constituting bullying or harassing)

"Situation Study Regarding Harassment in the World of Work, 2019" linked below (in Japanese):

<https://www.jtuc-rengo.or.jp/info/chousa/data/20190528.pdf>