



Labor Update No. 68 August 23, 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) Part-time national public servants to receive same 3-day summer break as full-timers

In regard to government employees' summer holidays, the National Personnel Authority is planning to make it possible starting next year for part-time employees to take three days off in a row just as full-time staff can.

According to a survey carried out by the National Personnel Authority the year before last, of private companies that have a summer break, 80 percent let non-regular employees have the same break period as regular employees.

The National Personnel Authority has now decided to do the same for public servants.

(2) Japanese-Language Education promotion Act passes, making it an obligation for the government, companies, etc., to give learning support

The Japanese-Language Education Promotion Act, which encourages improved Japanese-language education for foreign nationals living in Japan, was introduced and passed at the last session of the Diet. It clearly specifies an obligation for national and local governments to promote Japanese-language education, as well as for companies to make an effort to provide educational opportunities to foreign nationals in their employ. With the amended Immigration Act, which will expand the intake of foreign personnel, set to take effect in April, this will support their settling into Japanese society.

A growing need for Japanese-language education is behind this new law. As of the end of 2018, the number of foreign nationals in Japan was at a new record high of 2.73 million. According to the Culture Agency, the number of Japanese-language learners was about 240,000 in 2017, an increase of 72% from the figure five years before. On the other hand, the number of Japanese-language teachers was about 40,000, an increase of only 15% over the same period--a remarkable lag in the growth of education infrastructure.

“Act Concerning the Promotion of Japanese-Language Education” linked below (in Japanese):

<https://www.sangiin.go.jp/japanese/joho1/kousei/gian/198/pdf/s0901980101980.pdf>

“Regarding Implementation of the Act Concerning the Promotion of Japanese-Language Education (Memorandum)” linked below (in Japanese):

http://www.bunka.go.jp/seisaku/bunka_gyosei/shokan_horei/other/suishin_houritsu/1418260.html

(3) MHWL releases “Results of Heisei 30 [2018] Labor Dispute Statistics Survey”

“Summary” linked below (in Japanese):

<https://www.mhlw.go.jp/toukei/list/dl/14-30-09.pdf>

“Summary of Results of Heisei 30 [2018] Labor Dispute Statistics Survey” linked below (in Japanese):

<https://www.mhlw.go.jp/toukei/list/dl/14-30-08.pdf>

2. Legal Violations/Struggles

(1) Yamanashi Gakuin University now a labor-law-less “Wild West”, by order of its president and chief director who is qualified as a lawyer

The situation is downright abnormal at Yamanashi Gakuin University.

Part-time lecturers are fired to avoid switching them to unlimited contracts; procedures specified in the Labor Standards Act are ignored in unilaterally changing the working regulations for part-timers, including changes disadvantageous to them; corrective guidance from the Labor Standards Inspection Office is also ignored; and they even interfere in the election of a workers’ representative. These are many other violations of labor law go on with impunity.

Not only part-time lecturers, but full-time teachers and staff have also seen their labor conditions cut, and finally it is publicly announced that “this university specializes in education, so research is unnecessary”.

Of course, efforts are being made to stand up to all this.

Detailed report linked below (in Japanese):

<https://gendai.ismedia.jp/articles/-/66497>

(2) Illegal kickbacks for technical internships: supervisory group in Japan receives payment from dispatching organization

Executives at a personnel dispatching company in Myanmar have released part of an “under-the-table account” that records payments made to a supervisory group in Japan. The company is certified by the Myanmar government as a “sending organization” that dispatches interns to Japan. The secret account is their record as a sending agency.

The Technical Internship Act requires supervisory groups to be non-profit, and forbids them from receiving any fees or remuneration. These payments are illegal.

The supervising group said to have accepted the money gave a written response in late June to written questions from a newspaper, saying that “there have been no kickbacks given or received”. However, they would not give any further comment. The main reason for illegal payments is competition between the sending organizations.

Since these organizations make more money in fees the more interns they can send, they “grease the palms” of the supervising groups in hope of having more of their interns accepted.

The source of this money is the fees that sending organizations are allowed to collect from the interns. Each country sets a maximum limit per person on these fees--Myanmar at 2,800 dollars (about 300,000 yen), Vietnam at 3,600 dollars (about 380,000 yen), etc.--but interns do not always fully understand the system, and there have been cases of their travel expenses increasing to shift the burden onto them. There are said to be some sending agencies that collect more than 10,000 dollars (about 1,060,000 yen) from each person in order to guarantee their own advantage by paying kickbacks and entertainment expenses.

The majority of interns go deeply into debt to pay fees and travel expenses to these sending organizations. In order to pay off this debt, they put up with unpaid wages and long work hours in Japan. There are even some cases where interns have disappeared or committed suicide. Japan has made a promise to the sending countries to get rid of dishonest brokers, but has not yet managed to stamp out kickbacks.

(3) Benefits “denial to same-sex partners is discrimination”: Tokyo prefectural employees request measures

Two sexual-minority prefectural-government employees in Tokyo have made a request for improvement measures to the Metropolitan Personnel Committee, claiming that making certain benefits (such as special leave for weddings and funerals, as well as marriage congratulation bonuses) unavailable to same-sex couples is unfair discrimination and therefore forbidden by prefectural ordinance.

In October of last year, with the 2020 Tokyo Olympics and Paralympics in view, and aiming to realize the ideals of the Olympic Charter’s rule against discrimination, Tokyo became the first prefecture to pass an ordinance including a ban on all discrimination against sexual minorities (LGBT etc.).

However, the benefits available to legally-married couples, as well as to opposite-sex couples in common-law marriages--such as leave available when getting married, marriage congratulation bonuses paid by the Mutual Aid Association, or the use of staff housing meant for families--are not granted to staff members who have same-sex partners. The two claim that this amounts to discrimination, and are seeking equal treatment.

(4) Nissan settles with union after “haken-giri” bargaining: Nissan admits employer responsibility

A settlement was reached on the 19th at the Central Labor Commission in a case where a union, representing five dispatched workers at Nissan Motors, had filed a request for relief at the Kanagawa Prefectural Labor Commission. They had claimed it was an unfair labor practice for the company to refuse collective bargaining.

The contents of the settlement have not been made public, but amounts to Nissan accepting responsibilities that are *de facto* equivalent to those of an employer.

The five workers were dismissed from their jobs between February and March of 2009. The union they belong to attempted collective bargaining with Nissan, and filed a request for relief with the prefectural Labor Commission. In February of 2018, the Commission, considering Nissan to be the “employer”, ordered them to comply with bargaining.

(5) Dismissal of attendants at KLM “invalid”: labor tribunal grants switch to unlimited-term

In the case of three women working as cabin attendants for KLM Royal Dutch Airlines, who said they had been dismissed from work to avoid giving them unlimited-term employment, a Tokyo District Court labor tribunal has ruled that the dismissals were invalid and recognized their right to unlimited-term contracts.

There is also a lawsuit in progress at Tokyo District Court, filed by 28 other KLM cabin attendants who also say they were let go to avoid switching them to unlimited-term contracts.

(6) Industrial-accident compensation approved in *pawahara* case: company told them it was “a trial given by God”

Industrial-accident compensation has been approved for two women who began suffering from depression when they were working as new hires at a painting company in Kanagawa. Long working hours and sexual harassment have been recognized as the cause.

The year before last, when the two women in their 20s were newly-hired employees at a painting company in Atsugi City, Kanagawa Prefecture, they were forced by the company to work more than 80 hours of overtime per month. Furthermore, they were subjected to sexual harassment, such as having supervisors touch their bodies. Six months after beginning employment, they had contracted depression. The Labor Standards Inspection Office has granted both women industrial-accident compensation.

The women say “we were told [by the company chairman] that the sexual harassment was a test that had been given to us by God as a gift to us, so for now we would have to put up with it”.

The company has stated that “the chairman never made any remark to the effect of approving of sexual harassment”.

3. Situation/Statistics

(1) Government’s new system to give non-regular staff a bonus, but whence the funding? Municipalities feeling a sense of crisis

Cities and towns are trembling at the thought of bearing the costs of the new fiscal-yearly appointee system set to start in April 2020. With the introduction of this system, non-regular local public servants will become eligible for an end-of-term allowance (bonus), among other things, meaning a large increase in personnel expenses. But it remains undecided how the costs will be divided between national and local governments. From some municipalities, the opinion has been heard that “it will be hard to do this according to the national government’s plan”.

The Local Government Act and Local Civil Service Act were amended in May of 2015, and the decision was made to have the fiscal-yearly appointee system begin in 2020. The national government has requested municipalities amend their relevant ordinances accordingly, but has yet to clarify how the costs will be shared.

According to a 2016 Interior Ministry survey, the total number of non-regular (part-time, limited-term, etc.) local government employees nationwide was about 640,000, accounting for approximately one in four of all local government employees. They worked in all fields of government service, from City Hall office assistants to childcare workers and learning-support staff in public schools. Local Vitalization Cooperators will also be included in the fiscal-yearly system.

In accordance with the government's policy of aiming for "Equal Pay for Equal Work" in the private sector, this system has been newly positioned as a basis for appointing non-regular staff at municipalities. The great majority of temporary and part-time positions will be included in it, and working conditions, which currently vary from one municipality to another, will be standardized. The end-of-term allowance (and other allowances) are supposed to eliminate disparity between these workers and the full-time regular staff.

(2) "Partnership Oath System" to begin on Sep. 2: Nagasaki City first in its prefecture to introduce the system

Nagasaki City will begin a "Partnership Oath System" on September 2 to give public recognition to sexual-minority (LGBT etc.) couples. As it is not legally a marriage, it will not have effects in terms of taxes. But for the time being it will at least allow partners to sign next-of-kin consent forms in the case of hospitalization or surgery at municipal hospitals, and to reside as a couple in public housing. The announcement was made on the 16th of this month. It is the first city in its prefecture to introduce such a system.

The City has been designing the system ever since a council member asked for the introduction of a partnership system in general interpellation at the regular city assembly in June last year.

(3) Prefectural schools in Ehime to eliminate "sex" field from next year's entrance application forms

The Ehime Prefectural Board of Education has announced that, to show consideration for sexual minorities (LGBT etc.), they will eliminate the need to enter one's sex on entrance application forms for prefectural schools beginning with the next school year.

The schools whose forms will see this field eliminated are the prefectural public high schools and junior-high schools, as well as special-needs schools.