



Labor Update No.5 April, 2017

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. “regulation of a maximum limit on overtime work” : Government decides on a proposal

A regulated upper limit on hours of overtime work is supposed to be one of the central points of the “Working-Style reforms” . On March 17th, the Government officially decided on a proposal. The complete text (in Japanese) is in the link below.

<http://www.kantei.go.jp/jp/singi/hatarakikata/dai9/siryoul.pdf>

The main points included are:

- (1) The fundamental rule is “up to 45 hours per month, up to 360 hours per year” .
- (2) As a special exception in case of busy periods, etc., the yearly limit is “720 hours(an average of 60 hours per month)” .
- (3) Only 6 months out of every year can exceed the 45-hour monthly limit.
- (4) The limit for busy times is “a monthly average of 80 hours over 2-6 months” .
- (5) The limit for an especially busy month is “not more than 100 hours” .
- (6) Work on holidays does not count as overtime hours.
- (7) An “interval system” will be made an “obligation to make effort” .
- (8) Revision will be considered when 5 years have passed after the regulation comes into effect.

This legalizes “99.9 hours overtime in a month” , over the limit of 80 hours that is considered to be the “*karoshi* line” . In addition, as mentioned in item (6) above, work on holidays is considered “not overtime” . So in reality this allows for overtime work of “80 hours every month, 960 hours a year” .

Is this really a “restriction on long working hours” ?

2. Labor Standards Law violations in 60% of workplaces, illegal overtime in 40%: Ministry survey report

On January 17, 2017, the Ministry of Health, Welfare and Labor announced that “as a result of a survey on premises carried out from April to September of 2016 at 10,000 workplaces suspected of overlong working hours, 6,659 were found to be in violation of the Labor Standards Law.

“Of those workplaces subject to the survey, there were 4,416 (43.9%) where, because illegal overtime work was confirmed, the Ministry gave directions aimed at rectifying and improving the situation. Moreover, of these, overtime work of more than 80 hours in a month was actually found at 3,450 places (78.1%). In the future, we will continue to take positive measures to rectify the situation of long working hours, beginning with thorough supervisory guidance at workplaces suspected of exceeding 80 hours of overtime per month” .

In the report published in January, overtime exceeding 80 hours a month is made subject to supervisory guidance. But as noted in 1. above, the government proposal decided in March allows for “not more than 100 hours in a month” . The details (in Japanese) are in the link below.

Press release (summary)

<http://www.mhlw.go.jp/stf/houdou/0000148739.html>

Detailed survey results

http://www.mhlw.go.jp/file/04-Houdouhappyou-11202000-Roudouki_junkkyoku-Kantokuka/0000148735.pdf

3. Companies required to explain disparities in treatment between regular employees and irregular employees, dispatch workers: with penalty provisions

As part of the proposed outline for a “Working-Style Reforms implementation plan” that will be put together by the government by the end of March, amendments to relevant laws--aimed at realizing “equal pay for equal work” in order to improve the conditions of irregular employees and dispatch workers --contain a requirement for companies to explain any disparities between regular employees and irregular or dispatched workers to the worker.

In case irregular or dispatched workers feel there is an unreasonable disparity in treatment between themselves and regular employees, the plan even provides a basis for lawsuits seeking rectification of the problem. Additionally, it also includes procedures for solving disputes relating to “equal pay for equal work” in places other than court.

The government is working on bills to amend the Labor Contract Law, Part-time Labor Law, and Labor Dispatching Law in accordance with the contents of this plan, aiming to submit them to the Diet in the autumn of this year. All of these bills follow the “Proposed Guidelines on Equal Pay for Equal Work” announced in December 2016.

4. Labor Contract Law Article 20 lawsuit: Tokyo Metro kiosk contract employees lose their case

Four contract employees of a Tokyo Metro subsidiary, claiming that “since we work at the same subway station kiosks as regular employees do, the disparity in treatment is a violation of Article 20 of the Labor Contract Law” , had sued the company for 45.6 million yen in compensation for the difference in wages and conditions. The Tokyo District Court announced their verdict on the 23rd. While judging that the difference in premium rates of overtime allowance was indeed a violation, the court rejected their other claims, saying “there were large differences in the content of their work and their level of responsibility” .

5. Central Labor Relations Commission recognizes unfair labor practice by national university corporation University of Teacher Education, Fukuoka

On the 23rd, the Central Labor Relations Commission announced that the national university corporation University of Teacher Education, Fukuoka(Munakata City, Fukuoka Prefecture), had committed an unfair labor practice by treating two male professors disadvantageously on account of their activities in the faculty union. They issued an order for rectification of the issue.

In December of 2013, a male professor, who, as part of his union activities, had handed out leaflets at the train station criticizing the university president’ s election, was not appointed by the university to be dean of the graduate school of education. In March of the same year, a different male professor, who, as General Secretary of the union, had been a plaintiff in a lawsuit seeking unpaid wages from the university, was not nominated to be a member of the educational research council.

Fukuoka Prefectural Labor Commission, in response to the union’ s complaint, had recognized an unfair labor practice on the part of the university and issued a relief order, but the university objected and made an appeal. The Central Labor Relations Commission, recognizing “an unfair labor practice that seeks to shrink the scope of union activity so as to weaken the union” , issued their order on March 22nd, 2017.