

Editorial

Occupational safety and health in freelancers in Japan

In recent years, non-standard forms of employment, or ways of working that do not depend on traditional employment relationships, have been on the rise. According to ILO, “They include temporary employment; part-time and on-call work; temporary agency work and other multiparty employment relationships; as well as disguised employment and dependent self-employment”¹⁾.

In Japan, one of these non-standard forms of employment is called “freelance work”. There are several definitions, but in general, freelancers are individuals who run their own businesses, have no employees, and do not set up store. However, primary industry workers are not included. Regarding their protection, Kamata²⁾ pointed out the necessity of constructing a legal system and interpreting the law in a way that conforms to the existence of those who are positioned between workers and businesses. Similarly, the ILO discusses them as persons who are in fact workers but who are outside the “employment relationship”³⁾.

In 2021, the “Guidelines for Creating a Safe Environment for Freelance Workers” were jointly established by the Cabinet Secretariat, the JFTC, the Small and Medium Enterprise Agency, and the Ministry of Health, Labour and Welfare⁴⁾. Here, freelancers are defined as “a self-employed person or a one-person president who has no store and no employer, and who earns income by utilizing his/her own experience, knowledge, and skills”. While they are protected as business operators by the Anti-Monopoly Act and the Subcontracting Act, labor laws and regulations are applied to them if they are in fact employed (i.e., disguised employment and dependent self-employment).

In May 2023, the “Law Concerning Appropriateness, etc. of Transactions Pertaining to Specified Fiduciary Businesses” was promulgated⁴⁾. Freelancers working individually will be designated as “specified contractors”, and businesses that place orders with them for outsourced work will be required to clearly state the terms of the transaction when the work is outsourced, pay compensation within 60 days from the date of receipt of benefits in principle, and establish a system to prevent harassment. The law is meant to protect freelancers as business owners from large corporations.

We conducted an Internet survey of 2,750 freelanc-

ers, subsidized by the Ministry of Health, Labour and Welfare, starting in 2021, and reported the following five problems⁵⁾. (1) The first is long working hours. Those who worked more than 100 h per week were scattered. (2) The second is health. Japanese corporate employees receive an annual health checkup at the employer’s expense, but 35% of freelancers do not receive any kind of checkup. Less than 20% of respondents reported poor health, and about 20% have had illnesses but have not received treatment. (3) Hazardous jobs ranked third. Eighty-eight of the respondents work in hazardous occupations, but more than 70% of them have never received hazardous materials training, and most have never had a medical examination. (4) The fourth category is work-related injuries. Of those who work at home or outside the workplace, 30% experienced a “near-miss”, with the overwhelming majority of “near-misses” being hazards related to driving or traveling. A total of 370 experienced some type of accident. (5) Fifth, the relationship with the client: 1,811 (65.9%) were completely unaware of the “guidelines” mentioned above. The “problematic behavior” of the client identified in the guidelines highlighted the weak position of freelancers. More than 30% of the respondents were in a position closer to an “employee” than to an “independent self-employed” in terms of their relationship with their work/business partners.

The Ministry of Health, Labour and Welfare has conducted a “Study Group on Safety and Health Measures for Individual Businesses, etc.” 13 times from May 2022 to July 2023, and it is expected that comprehensive measures for freelancers will be advanced⁶⁾. Also, there has recently been an increase in employment-independent work, especially in the platform economy where labor and services are provided through the Internet⁷⁾. One typical example is Uber Eats. Occupational Health and Safety Measures are also required for this type of work.

References

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Kazuhito YOKOYAMA

Editor, International University of Health and Welfare, Japan