



Labor Update No. 103 Dec. 25, 2020

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) Childcare leave: leave to be made available to part-timers with less than a year on the job; paternity leave to be able to be taken in parts

The full menu of amendments meant to encourage more men to take childcare leave has appeared. As well as instituting a new system of “maternity leave for men” (paternity leave) and allowing this leave to be taken in parts at different times, the amendments would also make childcare leave available even to non-regular (part-time etc.) workers who have worked at their current job less than one year. Companies will be required to individually encourage those who are eligible for childcare leave to take it. The plan is also, for large companies, to require them to publish their rates of childcare leave being taken. The MHWL aims to have this system instituted starting in fiscal 2022.

Paternity leave will be able to be taken for a maximum total of four weeks within the period of eight weeks after the child’s birth. This leave will also be able to be taken in parts, for example some at the time of birth and some after the mother leaves the hospital.

The regular childcare leave system will be revised for women as well. Currently, for part-timers, contract employees, and others working on limited-term contracts, in order to take childcare leave, you need to have been working at that job for a year or more. This condition will be scrapped, making it possible for non-regular employees to take childcare leave even after less than a year on the job. This leave will also be made “splittable” (takeable in two parts), in order to accommodate double-income couples who need to take turns having time off.

For companies, there will be a requirement to give explanations of this system individually to employees who are eligible, and to confirm their intentions about taking leave. The aim is to change the workplace atmosphere that can make it difficult for men to say they want to take childcare leave. The plan is to have face-to-face explanations and/or information provided in writing.

“Regarding Policies for Promoting the Taking of Childcare Leave by men, Etc.”--MHWL 34th Labor Policy Council Employment Environment and Equal Opportunity

(2) LDP Diet caucus asks government for “rethinking of the minimum wage system”

The Liberal Democratic Party Dietmembers’ Association for the Promotion of a Unified Minimum Wage has put together a proposal calling for the minimum wage, currently set by prefecture, to be made the same nationwide. They have requested the government create a place for deliberations toward an across-the-board unification of the wage. They say there is a need to fundamentally rethink the current system, in which the central government sets an approximate guideline for raises and then each area refers to this in setting its own minimum wage.

If the minimum wage becomes uniform in line with this proposal, there is a worry the burden may be heavy on small and mid-size companies in areas where this makes the wage go up. To deal with this, the proposal makes clear that “it is also worth considering whether to give direct subsidies to help payment of wages and *Shakai Hoken* premiums”, saying support may be needed for about ten years. In regard to funding, it also touches on the possibility of taxing large companies’ internal reserves of accumulated profit.

(3) Draft budget for next year balloons with coronavirus measures

The cabinet has decided on a budget bill for next fiscal year.

<Coronavirus measures “15-month budget”>

The government will continue to make large expenditures in order to deal with COVID-19. First the third supplemental budget of fiscal 2020 will be passed at the regular Diet session starting in January 2021; then it will be combined with the fiscal 2021 budget bill to form a so-called “15-month budget”. General account expenditures will be on the scale of ¥125 trillion.

The general account total in the 2021 budget bill is ¥106.6 trillion, the highest ever. As reserve funds, in addition to the ¥500 billion usually added to the yearly budget, an additional ¥5 trillion will be included in preparation for another wave of the pandemic.

<No end to expansion of expenses for social security and defense>

The main expenses that have ballooned in the 2021 budget bill are social security and defense.

Social security expenditure will grow to ¥35.8 trillion, or ¥150 billion higher than the initial budget for 2020. The defense budget will also grow by ¥30 billion, setting a new high record of ¥5.3422 trillion.

<Tax revenue slumps, financial aggravation becomes severe>

The financial situation is dire. Not only is government spending growing in order to deal with COVID-19, but due to companies also doing poorly, tax revenues are in a slump. The government has revised the predicted tax yield for fiscal 2020 downward by ¥8 trillion to a figure of ¥55.1 trillion. They also predict a sluggish recovery of revenue

to only ¥57.4 trillion in fiscal 2021. This level is ¥6 trillion less than the initial predictions for 2020.

New issues of government bonds will total ¥43.6 trillion in fiscal 2021. As of March 2022, the balance of straight government bonds will reach ¥990.3 trillion.

“Points of Proposed Budget for Fiscal Year Reiwa 3 [2021]”--Finance Ministry

https://www.mof.go.jp/budget/budger_workflow/budget/fy2021/seifuan2021/01.pdf

(4) “Part-timers ineligible to work from home” will not be allowed: policy change

A review committee formed by the Ministry of Health, Welfare and Labor (MHWL) to discuss issues with “tele-work” or remote work, which has become more widespread during the COVID-19 pandemic, has put together its report. While mentioning moves in a direction of making it easier to work remotely--such as *de facto* allowing gaps in the middle of work time--the report also calls for continued proper management of working time to avoid having people work overly long hours. The MHWL will use this report as a base to make large changes in their remote work policy (guidelines).

Since the spring, when there was even a declared state of emergency, a widespread practice has been to allow *seishain* (regular full-time employees) to work from home, while still requiring dispatched and other non-regular workers to come into the office. Therefore, the report calls on companies to be careful not to make eligibility for remote work depend on differences of employment type (such as regular or non-regular).

Furthermore, since there is worry that remote work may lead to working overly long hours, the report points out once again the importance of companies’ carrying out their duty to keep proper track of work hours.

“Review Committee Report on Remote Work Styles (Proposal)”--MHWL, Remote Work Styles Review Committee, 5th Mtg., Dec. 23, 2020

<https://www.mhlw.go.jp/content/11911500/000709135.pdf>

(5) Contracts with freelancers to be covered by the Anti-Monopoly Act: Fair Trade Commission, MHWL announce proposed policy to protect freelancers

The Fair Trade Commission and the MHWL have published a guideline (policy) proposal to protect people who work freelance, that is, without belonging to a company or other organization. This proposal for the first time expresses clearly the opinion that contracts with freelancers should be subject to the Anti-Monopoly Act and to laws on subcontracting, and calls for conditions of transactions to be made clear in writing when work is ordered. Opinions will be invited, and a plan will be worked out by the end of this fiscal year. More and more people are working as freelancers, but their legal status is unclear; the government had announced their intent to draw up a clear policy.

The Fair Trade Commission has put it into this proposal that the Anti-Monopoly Act applies to all transactions between a freelancer and a client. There are reported cases

of trouble such as a client, without legitimate reason, refusing to pay a freelancer; or unilaterally canceling an order, etc.; under the Anti-Monopoly law, these actions would constitute abuse of a superior bargaining position. If the client is a corporation with capital of ¥10 million or more, the subcontracting law would also apply.

The proposal also mentions that, depending on the real situation or “work style”, freelancers may also be covered by the Labor Standards Act or other labor laws. As an example, it mentions that, in case the place and/or time of work are specified by the client, or specific commands or directions are given by the client regarding the progress of work, then the person may be considered a “worker” under the Labor Standards Act.

“Guideline for Preparing a Secure Environment for Working as a Freelancer (Proposal)”--Cabinet Secretariat, Fair Trade Commission, Small and Medium Enterprise Agency, Ministry of Health, Welfare and Labor. Dec. 24, 2020

<https://www.jftc.go.jp/houdou/pressrelease/2020/dec/201224gl3.pdf>

2. Legal Violations/Disputes

(1) Osaka Metro employee commits suicide--boss demanded he shave his head, told him “die”

A man in his 40s who worked for Osaka Metro (Osaka City) was subjected to *pawahara* (“power harassment” or workplace bullying) by a supervisor, and in March of this year was found dead in the office. It has now come out that the man was told “drop dead” by his supervisor on a daily basis, and that the supervisor had demanded he shave all the hair on his head. The man’s family have filed for industrial accident compensation for the death.

The man at first worked for the municipal transport authority as a City public servant; then, with the privatization of the Osaka subway in 2018 he became an employee of Osaka Metro. He was in charge of accounting, and worked under the same section head since 2018.

(2) Children’s Hall staff insist “Kyoto City commits an unfair labor practice”: refuses same bargaining that has gone on for 30 years, complaint filed

A union of staff members of Children’s Halls and After-School Clubs (child care facilities) in Kyoto have filed a complaint at the prefectural Labor Commission, saying that it is an unfair labor practice for the City to refuse collective bargaining.

The union has engaged in collective bargaining with the city every year since 1989 over conditions for staff at the Children’s Halls and After-School Clubs. However, this year, when they requested bargaining three times between June and September, the City refused, saying “we are not in an employment relationship”.

Most of the Children’s Halls and After-School Clubs in the city have a designated

administrator system. The union points out that, although admitting that “the City and the union members do not have a direct employment contract”, they continued engaging in bargaining for about 30 years; and that the City *de facto* decides staff salaries in its guidelines. Therefore they say that “It is clear that the City is an employer under the Labor Union Law. It is unforgivable for them to cut off collective bargaining”.

3. Situation/Statistics

(1) Unionization rate rises for first time in 11 years, progress made in enrolling part-timers: 2020 survey

According to the Basic Survey on Labor Unions published by the MHWL (as of the end of June), the union organization rate (expressing the number of union members as a percentage of the total number of employed persons) was 17.1%, a rise of 0.4 points compared to the previous year. This is the first increase since 2009, or in eleven years. The number set new low records every year for eight years in a row up through last year. But with the worsening of the economy due to the effects of COVID-19, the number of employed people decreased by 1.6%, to 59.29 million, the first decrease in this number in ten years. The number of union members, meanwhile, rose by 0.3%, to 10.115 million, this figure’s first increase in six years. Among these, the number of part-time workers--a category that includes a large number of women--rose by 3.1% to reach a new high record of 1.375 million.

The union organization rate among part-timers is 8.7%. This number is 0.6 percentage points higher than last year. The proportion of part-timers among the total of union members also rose, reaching 13.7%. Looking at the growth by industry category, notable increases in the organization rate were seen in the hospitality/restaurant industry (4.4% up) and the wholesale/retail industry (2.0% up). Both of these have a high proportion of part-time workers.

“Summary of Basic Survey on Labor Unions, Reiwa 2 [2020]”: MHWL
<https://www.mhlw.go.jp/toukei/itiran/roudou/roushi/kiso/19/dl/gaikyou.pdf>

(2) “Uneasy about employment”, say 58% of workers

Trade union center RENGO has found, on conducting a survey of the situation and feelings of workers amid the coronavirus crisis, that 58.1% of those surveyed say “I feel unease about my own employment”. The number of those who have experienced furloughs in or after March was 21.7%. Those in charge of the survey say that “with no end currently in sight, unease is spreading even for those who have not experienced furloughs or pay cuts”. The survey was carried out online in late November, and collected answers from 1,000 men and women across the country, including part-time and dispatched workers.

“2020 Survey on Employment under the COVID-19 Crisis”--RENGO
<https://www.jtuc-rengo.or.jp/info/chousa/data/20201217.pdf?1857>