



Labor Update No. 130 Jan. 7, 2022

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) "In Regard to System Revisions in Accordance with Amendments to Health Insurance Act, Etc. (Disability Benefit, Voluntary Continuation, Lump-Sum Childbirth Benefit)" -- National Health Insurance Association

<https://www.kyoukaikenpo.or.jp/g7/cat710/sb3160/sb3190/sbb3193/202201/>

(2) Government's "Summary of Tax System Amendments for Fiscal Year Reiwa 4 [2022]" Dec. 24, 2021 -- Finance Ministry

https://www.mof.go.jp/tax_policy/tax_reform/outline/fy2022/20211224taikou.pdf

2. Legal Violations/Disputes

(1) Teachers' overtime unpaid under invalid labor agreement: school apologizes after receiving citation

It has come to light that teachers' overtime work went unpaid at Miyazaki Nihon University Junior and Senior High Schools, according to a citation the school received from the Miyazaki Labor Standards Inspection Office (LSIO). This was admitted by school corporation Miyazaki Nihon Daigaku Gakuen, which runs the schools, saying that after receiving the citation, they apologized in writing to their teachers and back-paid them for the overtime.

At private schools, if teachers are to be required to work after hours or on weekends or holidays, it is necessary to have a labor agreement known as a "3-6 agreement", setting an upper limit on overtime hours, etc. According to the Labor Standards Act, the workers' representative who signs the agreement must be chosen by a majority vote of the employees.

However, at these schools, for many years, the school corporation had appointed one teacher their own choosing to sign the agreement that they sent to the LSIO. Based on this, they had not been paying overtime for teachers' work on their days off.

(2) Illegal to refuse unlimited-term contract after five years: Tokyo District Court verdict in case of Senshu U. language teacher

When a part-time lecturer (*hijokin koshi*) at Senshu University, who had worked under a limited-term contract for over five years, asked to be changed over to unlimited-term, the university refused. This was illegal, says a verdict given on the 16th by the Tokyo District Court.

The Labor Contract Act contains a “five-year rule”, whereby a worker whose limited-term contract has been renewed for a total of more than five years can apply to change to a permanent contract. However, there is an exception for “researchers”: a different law specifies that they can only gain this right after ten years, not five. This other law is aimed at promoting research and development. But the definition of “researcher” has become a matter for debate.

Lawyers for the plaintiff, Ono Tomoko, claim that her duties were limited to German-language classes and exams, that she was not involved in any research, and that therefore she is not subject to the ten-year exception. The verdict agrees with this claim. Senshu University filed an appeal on the 24th.

(3) Over ¥200 million in unpaid overtime at Mie U. schools; two principals take responsibility and resign

Mie University, located in Tsu, failed to pay augmented rates for overtime work by teachers at its affiliated schools, says a citation received by the university from the Tsu LSIO. Now it has become clear that the total back-payment to more than 100 teachers—including some who have since retired—is likely to be over ¥200 million.

Taking responsibility for the problem, the two principals of the University’s junior-high school and special-needs school have resigned, both on the 5th.

(4) Japan Post, after verdict finds disparities, proposes “cutting paid holidays for full-timers”

It has become known that Japan Post Group, responding to the October 2020 Supreme Court ruling that found “unreasonable disparities in treatment between regular and non-regular (part-time, etc.) staff”, has made a proposal to a union of its workers for revisions that would shrink these disparities. This includes cutting the amount of time off enjoyed by regular (full-time) employees, to which the union is opposed.

The company’s proposed changes are to three areas: summer and winter paid days off, New Year’s holiday-work pay, and and paid sick leave. Currently, regular staff doing postal work have three paid days off in summer and three in winter; associate staff (those who have switched from limited-term contracts to permanent employment) have one day in summer and one in winter. Meanwhile, limited-term employees have zero. The company’s proposal would give one day off in summer and one in winter to these limited-contract staff, while reducing full-time regular staff from three days to

two--a cut in conditions for the regular employees.

Furthermore, as regards the New Year's holiday period, the augmented pay for regular employees would be abolished, while the holiday work allowance would be increased for regular and non-regular staff alike. As for paid sick leave, fifteen days' worth would now be given to associate staff. But for both them and the regular staff, it would be available only for illnesses that require at least 31 days to recover.

Japan Post Group employs about 220,000 regular employees, 110,000 associate staff, and 70,000 limited-term employees, with differences in their working conditions. In a lawsuit filed by limited-term employees working for the postal service, there were found to be disparities that were illegal in light of Article 20 of the Labor Contract Act (corresponding to Article 8 of the current Part-Time and Limited-Term Labor Act). Therefore, in September of last year, the company indicated their intent to make changes.

The government's "Equal pay for Equal Work Guidelines" state clearly that the purpose of eliminating disparities is to improve conditions for non-regular workers. If conditions are to be reduced for regular workers, it is necessary to have a labor agreement or a logical reason.

The ruling in the Japan Post lawsuit also found illegal disparity in housing allowances and family allowances. Changes to these have already been decided.

3. Situation/Statistics

(1) When getting vaccinated, "foreign nationals without status of residence" do not need to be reported; municipalities divided

In relation to COVID-19 vaccinations for foreign nationals staying in the country without legal permission, towns and cities across the country are taking differing approaches. Under the Immigration Control Act, public officials who become aware of a foreign national without legal status have a duty to report this person to the authorities. But the MHWL has notified municipalities that pandemic measures constitute an exception. While some local governments, in accordance with the MHWL notice, are going ahead with vaccinations for undocumented foreign nationals, there have also been cases where individuals have been reported to Immigration after receiving the vaccine.

According to the Immigration Agency, there are approximately 83,000 foreign nationals who have "overstayed" in Japan past the expiration of their period of residence (as of 2020). The number who were permitted provisional release from detention in 2020 was 6,388. This was a dramatic increase over the 1,777 in 2019. According to those in charge, this is in part to avoid crowding in detention facilities as part of precautions against the spread of COVID-19.

(2) 46 prefectures (all except Tokyo) remove "sex" field from application forms for public high schools

Reporters have found out that, by the time of the 2022 entrance exams that will select students to start public high schools next spring, forty-six prefectural boards of education--all except Tokyo--will have abolished the need for students to indicate their sex on the application form. The move to delete the "sex" field from forms, begun out of consideration for transgender people (whose self-identified gender differs from their birth sex) and other sexual minorities, has spread throughout the country.

The Tokyo Prefectural Board of Education is the only one in Japan to have a system of admission capacity by gender (separate set numbers of boys and of girls admitted). For this reason they have continued to include students' sex on their forms. However, they have decided to eventually phase out this system. Those in charge have told reporters that "if it were not for the capacity system, [indicating sex] would be unnecessary", suggesting that they may eliminate it in the future.

(3) Wealthiest 1% possess nearly 40% of world's wealth: French research group

The widening of economic disparity, partly due to the effects of the COVID-19 pandemic, is becoming an issue in various countries. Now a study by a research group based in France has made it clear that the wealthiest 1% of people in the world possess nearly four-tenths of the whole world's individual assets.

The research group, based in France and made up of economists from around the world, put together a report this month on worldwide economic inequality.

According to this, a set of only about 51 million wealthy people--corresponding to 1% of the world's adult population--own 37.8% of the total amount of individual assets in the entire world. This is an increase of just over 4 percentage points since the previous study four years ago.

Meanwhile, the lower 50% of the population have assets totaling only 2% of the total; and the report points out that, due to the effects of the pandemic, people in non-regular employment have suffered reduced income or unemployment, leading to a widening of disparity especially in developing countries.

The report also describes the situation in each country. The amount of the whole country's wealth possessed by the top 1% is about 35% in the U.S., and approximately 31% in China. In Japan, this figure is about 25%.

About the situation in Japan, the report states that "Wealth distribution in Japan is very unequal, but not more than in Western Europe countries."

"WORLD INEQUALITY REPORT 2022"

<https://wir2022.wid.world/>

(4) Ebetsu, Hokkaido, to introduce "partner system" within the year; second in the

prefecture, after Sapporo

The city of Ebetsu in Hokkaido will be introducing a “partnership oath system”, granting public recognition to LGBT and other sexual-minority couples, possibly as soon as within this year. Mayor Miyoshi Noboru made the announcement on the 4th.

The introduction of such a system had been under consideration in Ebetsu, including discussion at the city’s Gender Equality Council, since the local government received a demand from a citizen group in 2018. The city is currently looking into which municipal services will be usable under the system, such as living in public housing (as a couple) or giving consent to operations (as next of kin) at municipal hospitals. They are also calling for cooperation from private businesses that provide services for families, such as telecom providers giving family discounts on mobile phone contracts, life-insurance companies that let customers specify a family member as beneficiary, etc.

An outline proposal is set to be approved by the Gender Equality Council later this month, making Ebetsu the second municipality in Hokkaido to have such a system (after Sapporo, which introduced one in 2017).