



Labour Update

労組周辺動向 No. 144



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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) Companies begin being required to publish gender gaps in wages

On July 8, the Ministry of Health, Welfare and Labor (MHWL) amended relevant ministerial ordinances to require companies to publish their gender gaps in wages. These gaps are especially large in Japan compared to other economically developed countries; the aim, by requiring companies to release the information, is to encourage them to rectify this, and thereby promote women's participation in the workplace.

“Women's Participation Promotion Act Ordinances and Notices Amended” July 8, 2022, MHWL

https://www.mhlw.go.jp/stf/newpage_26587.html

(2) Results of 26th House of Councilors regular election

Changes in main parties' number of seats, including non-reelection seats

LDP: 111 --> 119

Komeito: 28 --> 27

CDP: 45 --> 38

JCP: 13 --> 11

DPP: 12 --> 10

Reiwa Shinsengumi: 2 --> 5

SDP: 1 --> 1

NHK Party: 1 --> 2

Proportional-representation votes gained, by party:

https://generalunion-my.sharepoint.com/:x:/g/personal/tesolat_generalunion_onmicrosoft_com/EY1T8U1mXBxDjJdbTh6mrAsBCkw2iCq3dZYaaqjeUWVsgw?e=ER8rO6

2. Legal Violations/Disputes

(1) Part-timers unionize at Patagonia, complaining of "evading unlimited contracts"

The Japanese subsidiary of outdoor goods company Patagonia sets limited-term employees' term of employment at "up to five years". This is in order to evade the "unlimited-term conversion rule" (or "5-year rule"), whereby workers can apply for a permanent employment contract: so say four part-timers working for the company in Hokkaido and Kan-to, who have formed a union seeking to abolish the term limit.

Under the Labor Contract Law amendment that came into effect in April of 2013, workers on contracts that fixed the term of employment (such as those renewed for one year at a time), once they have worked for over five years, become able to switch to unlimited-term contracts, with no set ending date. Many companies have terminated workers' employment before they can reach five years, and this has become a serious issue.

(2) Changing into uniform: is this included in work hours? Restaurant chains differ in their approaches

Should the time it takes to change into uniform be included in working hours? Restaurant company Fujio Food Systems has received a citation from a Labor Standards Office (LSIO) for not paying its employees for this time. National policy is that changing into work uniform should be included in work hours. But the major food-service companies all have different rules.

In regard to changing into uniforms, the Supreme Court gave a verdict in 2000 that "it can be evaluated that they are under the direction and control of the employer" during this time, and that therefore it should be counted as working time.

Under the guidelines decided by the MHWL in 2017, “time taken for necessary preparations in order to perform the duties directed by an employer” is considered working time. “Changing into a specified uniform that one is required to wear” is given as an example.

But restaurants still differ in their actual treatment.

At Mos Burger, employees are paid for their changing time at directly-managed branches. The company says it instructs franchisees to do the same. Their public-relations department explains, “our understanding is that preparation time is included in work”.

At gyudon (beef on rice) chain Sukiya, employees are told to change after the starting time of their pre-decided working shift. If they come to work early and change before their starting time, they are not paid for this.

Meanwhile, Starbucks Coffee does not include changing time in work hours. At work, employees need only put on a company apron over their own clothes (of an approved color, etc.), so the company says they are not required to change clothes at work.

McDonald’s Japan says that “some employees come to work from home already in uniform, so we do not take steps such as paying across the board” for changing time.

Royal Holdings, operator of family-restaurant chain Royal Host and ten-don (tempura on rice) chain Tenya, also does not include changing time in work hours. They say they “are carrying on earnest investigation into whether we should include it in working time, with reference to recent legal precedents” (PR representative).

(3) Senshu U. part-time lecturer granted “unlimited contract after 5 years” by Superior Court; application of special “10-year rule” rejected

In a lawsuit filed by a part-time lecturer (*hijokin koshi*) at Senshu University over whether the usual “five-year rule” or the special “ten-year rule” should apply to her, the Tokyo Superior Court has upheld the previous ruling by a lower court, which decided the “five-year rule” should apply. This verdict means that the lecturer’s request for an unlimited-term contract was valid.

In regard to university researchers, etc., the Innovation Act (Act Concerning the Vitalization of Science, Technology and Innovation Creation) stipulates a special “ten-year rule”; the argument in court was over whether this or the “five-year rule” was the appropriate one for this case.

In relation to this point, both the District Court and the Superior Court found that, considering the fact that the classes taught by Ms. Ono (the lecturer) were German language classes from beginner to intermediate levels, she did not fit the definition of a “researcher” under the Innovation Act. The courts therefore rejected the application of the “ten-year rule”.

3. Situation/Statistics

(1) Wage increase rate at small companies 1.5%, highest in 24 years: MHWL

The MHWL announced on July 12 that this year's rate of wage increase at small and medium-sized companies was 1.5%, the highest it has been in 24 years. This figure is publicized as a reference for deciding the amount by which to raise the minimum wage this year, and is likely to be a factor in pushing the minimum wage up.

Companies across the country with fewer than 30 employees were asked how much their June wages had gone up compared to one year before. Approximately 4,700 companies answered. Last year, due in part to the effects of the COVID-19 crisis, the increase rate went down to 0.4%. This year, with companies' business recovering, and with rises in prices also having an effect, wages went up as well.

Looking at the wage increase rate by industry, the medical and welfare field (where the government budgeted to raise wages) had the highest figure, at 2.2% (compared to 0.8% last year). Next was manufacturing, with 1.6% (1.0% last year). The hospitality and food-service sector, which was especially hard-hit by the pandemic, had 1.5% (after having only 0.1% last year), a notable recovery.

"Results of Reiwa 4 [2022] Survey on the Wage Adjustment Situation" Jul. 12, 2022, MHWL; Reiwa 4 Central Minimum Wage Council Subcommittee on Guidelines (2nd mtg.)

<https://www.mhlw.go.jp/content/11201250/000962926.pdf>

(2) Japan ranks 116th in gender equality: lags in politics and economic status, ranks last of developed countries--international survey

On July 13, the World Economic Forum (WEF) published their "Gender Gap Index" for 2022, which describes the extent of gender equality around the world. In the overall index scores, Japan was ranked 116th out of 146 countries and regions worldwide. This is four places higher than its position in 2021, but still the last out of the so-called developed countries, with especially low scores in the political and economic fields. Resolving gender disparities could be called a pressing issue for the Kishida administration, which has just come successfully through an Upper House election.

In the education category, there was no gender gap observable in Japan, which shared first place with 20 other countries. However, the large slump in women's labor-force participation rate showed its effects in the economic category, in which Japan came 121st. The proportion of women in the legislature and in ministerial-level government posts remained as low as before, so that the country scored 139th in the category of politics. Due to these low scores, the overall Gender Gap Index score itself for Japan was even lower than last year.

In first place overall, for the 13th year in a row, was Iceland. Second was Finland, and Norway was third: Northern Europe swept the top spots. The G7 countries apart from Japan ranked as follows: Germany was 10th, France 15th, the U.K. was in 22nd place, Canada 25th, the U.S. came 27th, and Italy ranked 63rd.

Japan ranked lower than South Korea (99th) and China (102nd), and was last of 19 countries in the East Asia/Pacific region as well.

“These are the world’s most gender-equal countries” World Economic Forum, July 13, 2022

<https://www.weforum.org/agenda/2022/07/gender-equal-countries-gender-gap/>

(3) U.S. consumer prices rise 9.1% in June: highest in 40 years

The consumer price index (CPI) figures for June released on July 13 by the U.S. Department of Labor were up 9.1% compared to the same month of the previous year. The rate of increase was larger than the month before (which was 8.6% up); this was the highest level since November of 1981, approximately 40 and one-half years ago. This shows that inflation is rising, and seems likely to put pressure on the Federal Reserve Board (FRB) to raise interest rates.

(4) Nintendo to treat same-sex partners the same as spouses; also bans “outing”

Major game company Nintendo (Minami-ku, Kyoto) has updated the CSR (Corporate Social Responsibility) information on their official website to announce that they have introduced a “partnership system”, treating employees with same-sex partners the same as those who are married. The company says they are aiming to have a workplace environment where everyone can work equally comfortably.

According to the company, the system was introduced in March of 2021. In regard to employees who have same-sex partners in a relationship equivalent to a marriage, they will be treated in the company’s system the same as those with a spouse. For opposite-sex couples in *de facto* or “common-law” marriages, they too will be treated the same as those in an official legal marriage.

Along with introducing this system, the company has also updated their policies on workplace harassment. The rules now clearly forbid discriminatory remarks relating to another’s sexual orientation or gender identity, as well as acts of “outing”, or revealing another’s sexual orientation to a third party without the person’s consent.

Policies on sexual minorities (LGBT etc.) are being seen at more and more local governments and private businesses in recent years. In April of 2015, Shibuya Ward in Tokyo enacted the nation’s first ordinance to recognize same-sex partnerships. According to a survey by the website “Minna-no Partnership Seido” (Partnership System for Everyone), there

are 223 local governments in Japan that have similar systems, covering 52.8% of the population.

In 2019, Taiwan was the first country in Asia to legalize same-sex marriage. Japan is the only G7 country that still does not recognize same-sex marriage.

(5) IMF head says world economic growth-rate predictions may need to be lowered: slow-down in China

The head of the International Monetary Fund (IMF), Managing Director Kristalina Georgieva, said in an exclusive NHK interview that, in regard to the world economic outlook, "since we published the predictions in April, risks of downturn have appeared concretely. Downward revision seems especially likely for China due to the effects of COVID-19. Investment is being inhibited by heightened uncertainty." About the prospects for the worldwide economic growth rate, set to be published next week, she said she believes they will be lowered from the 3.6% that was previously predicted.

Also, in regard to the prospects for Japan's economy, Georgieva stated that "the growth rate will be slightly lowered, while the inflation rate is likely to be revised upward. But the rate of increase in prices in Japan remains low. The price increase rate is likely to stay below 2%."