



Labour Update

労組周辺動向 No. 149



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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) “Direction of Legislation for Fairness in Business Involving Freelance Workers”

“Direction of Legislation for Fairness in Business Involving Freelance Workers”: 52nd Meeting, Employment Environment and Equality Subcommittee, Labor Policy Council--Sept. 16, 2022, MHWL

<https://www.mhlw.go.jp/content/11901000/000990642.pdf>

(2) Childbirth/Childcare Lump-Sum Benefit: over-75s to bear part of cost? Government deliberates

The Kishida administration has shown an interest in raising the amount of the Childbirth/Childcare Lump-Sum Benefit. In regard to funding for this, the government has begun deliberation on having people over age 75 bear part of the necessary cost. Up until now, the idea in principle has been to have National Health Insurance and companies’ Health Insur-

ance Associations pay, and have no burden on those over 75 years old. But with the birth rate declining faster and faster, the government is planning a shift to having costs paid by a wide range of generations.

“In Regard to Reforming the Healthcare and Elder-Care System”: Sept. 28, 2022, 7th All-Generations Social Security System Conference

https://www.cas.go.jp/jp/seisaku/zensedai_hosyo/dai7/siryou2.pdf

2. Legal Violations/Disputes

(1) District Court orders national government to pay ¥1.65 million in case of Cameroonian man who died in immigration detention

In the case of a man from Cameroon who died in 2014 while detained at the East Japan Immigration Center (Ushiku, Ibaraki), and whose mother sued the national government and the head of the immigration center seeking ¥10 million in compensation, the Mito District Court gave its verdict on September 16. The mother had claimed there were failures in how the Immigration Bureau treated the man while in detention. The court acknowledged the government’s responsibility in the man’s death, and ordered compensation of ¥1.65 million.

According to the lawsuit, the man arrived at Narita Airport in October of 2013, was denied entry to Japan, and was detained at the Immigration Center. He suffered from diabetes and other ailments, and at first was treated and prescribed medication by the facility’s doctor. But in late March, 2014, he complained of a worsening condition, saying he felt “too ill to stand”. On the morning of March 30, he was confirmed dead.

Seventeen foreign nationals are known to have died of disease or by suicide at immigration facilities all over the country since 2007. Of these, the Cameroonian man’s case is the first in which the national government’s responsibility has been at issue in a lawsuit, and seen a verdict be handed down.

(2) Amazon contractor orders delivery driver to use other person’s ID: working hours over limit

It has come to light that a transport company in Kanagawa, which handles deliveries for online shopping giant Amazon, had a delivery driver on an independent contract use another person’s ID in order to make the driver’s working hours appear shorter than they really were. The transport company is said to have admitted this after a union made up of delivery drivers demanded improvement, saying the practice could lead to overwork.

According to the union, they have been consulted by drivers in similar situations with multiple transport companies, from the Kanto area to Kyushu.

The drivers sign outsourcing contracts with the companies, and work as independent sub-contractors. On paper, they and the companies are in an equal relationship. But since they are not officially employees, they often are not protected by labor laws as “workers”, and it has been said that they tend to be overworked. In order to win improvements, these drivers’ first union--the Yokosuka branch of the Amazon Delivery Drivers’ Union--came into being in June. This month a Nagasaki branch was also formed; there are movements afoot to set up branches in several places in Kanto.

According to the union, Amazon manages the drivers’ working hours using an app, and sets its own standard limit of 60 hours’ work per week. However, a driver said in a consultation that a company in Yokohama, Kanagawa, was telling drivers to use someone else’s ID when they worked more than 60 hours. The union sent demands for improvement to two companies, the contractor and a subcontractor. The contractor company admitted to the union that they had directed this, and are said to have ceased this practice after receiving the demand.

The union insists that Amazon, too, has responsibility as an employer. They have demanded collective bargaining and rectification of the overlong working hours. But so far, Amazon has refused to bargain.

(3) Former teachers at SOLA Gakuen sue school, saying contract renewals are invalid: case goes to Naha District Court

Three former employees of school corporation SOLA Gakuen (Ginowan, Okinawa), where there were mass layoffs of teachers, had filed suit at Naha District Court as of the 21st, seeking confirmation of status. They claim that the non-renewals of their work contracts were invalid. Opening oral arguments were heard in court that day; the school demanded the claim be rejected. The suit is dated June 29. The plaintiffs are two men who were teachers (one in his 60s and one in his 40s), and one woman in her 40s who was a member of staff.

According to the suit, when the current chief director took over the school corporation, teachers began receiving notices of changes and cuts to working conditions, with no reasonable explanation. The three plaintiffs were let go, with the only stated reason being the expiration of their contracts; they claim that “the terminations were lacking in any objective reason or social appropriateness, and were an abuse of authority”.

(4) Five-year-old decision overturned, death of Mitsubishi Fuso employee recognized as from overwork: harsh environment, even under the “80 hours a month” limit

In the case of a man who fell ill on the job in 2015 at the Kyoto branch of Mitsubishi Fuso Truck & Bus (headquartered in Kawasaki), and who then died of acute heart failure, the Kyoto-Shimo Labor Standards Inspection Office (LSIO) has overturned its decision of five years ago. This previous decision denied work-injury compensation, but in June of this year the judgement was reversed, and compensation was granted. The man was below the so-called “*karoshi* line” (*karoshi*=death from overwork) of 80 hours’ overtime in a

month. However, he was engaged in maintenance work in a harsh environment, with high heat and humidity. The LSIO, referring to work-accident compensation standards that were revised last year, judged that the man's death was indeed from overwork.

The Ministry of Health, Welfare and Labor (MHWL) amended the compensation standards in September of last year, the first such revision in twenty years, in response to the growing diversity of work-styles. The new standards kept the *karoshi* line as-is. However, death from overwork is no longer judged solely on the basis of that line; instead, even if the person in question worked fewer hours than this, the standards now clearly indicate that burdens other than work hours--such as work environment, or long stretches without a day off--are to be taken more holistically into account in making the decision. The MHWL asked local Labor Commissions to judge ongoing compensation cases in line with the new standards.

The man's surviving family members are currently fighting in court to have the government retract the LSIO's previous decision. Kyoto-Shimo LSIO therefore reconsidered the case. In addition to overtime work, the LSIO found that, since the man was using hot steam (at temperatures of 50-60°C) to clean vehicles in a factory with no air conditioning, "it can be recognized as overwork, producing an extreme buildup of fatigue".

(5) Compensation denied for housekeeper's sudden death--Tokyo District Court

The Tokyo District Court on September 29 rejected a claim in the case of a woman who worked as a housekeeper and caregiver, and who died suddenly in 2015 after engaging in hard work duties. The Shibuya LSIO denied work-accident compensation on the grounds that the woman was a "domestic helper", to whom the Labor Standards Act does not apply. The woman's husband had sued the national government seeking to void this decision; the Court has now given its verdict.

The plaintiff claimed that the woman was employed by a home-visit care and housekeeping service in Tokyo. Furthermore, he also insisted that excluding domestic helpers from the labor standards law was unconstitutional in the first place. The government's position was that the woman was employed by a private household, and that the LSIO's decision was appropriate.

3. Situation/Statistics

(1) Number of working elderly increases eighteen years in a row; now "one in two" of those aged 65-69--Interior Ministry statistics

The population of elderly persons (aged 65 and over) increased by 60,000 from the previous year, to 36.27 million; as a proportion of the total population, this is 29.1%. Both these numbers are new high records. Of the elderly population, the proportion who are employed is 25.1%; among just those aged 65 to 69, the proportion is 50.3%, going over half for the first time. The government is encouraging continued employment for the el-

derly as a way of dealing with labor shortages caused by the declining population.

These estimates were released by the Interior Ministry to coincide with Respect for the Aged Day on the 19th. The number of elderly women was 20.53 million (32.0% of the total female population), while that of men was 15.74 million (26.0% of the male population). When broken down by age group, 19.37 million, or 15.5% of the total population, were over 75.

In terms of reasons for this, the Ministry stated that “it may be because the baby-boom generation (born between 1947 and ‘49) began reaching 75 years old in 2022.” The number of people over 80 was 12.35 million, an increase of 410,000 over the previous year.

According to the Labor Force Survey, the number of working elderly last year was a new high record of 9.09 million. This is the eighteenth year in a row of increases.

Elderly people make up 13.5% of the whole working population; this number also is a new high record. The employment rate was 34.1% for men, and 18.2% for women.

Of those who were working, the number employed by companies, etc. (not including executives) was 5.17 million. As for form of employment, 3.93 million of these (or 75.9%) were in part-time, *arubaito*, or other non-regular employment.

The government has been encouraging employment for the elderly. The aim is to compensate for shortfalls in the workforce that are caused by the declining birthrate. The so-called “working-age population”, ages 15-64, peaked in 1995 at 87 million, and then declined by approximately 12 million over the next 25 years. It is predicted to continue declining, and there are fears that labor shortages may become severe.

Originally the government required companies to continue employment until age 65 for anyone who wished it. Then, starting in April of last year, they began requiring efforts to secure the opportunity to continue working until age 70. This new law offers companies options such as eliminating or raising the retirement age, continuing employment, or re-hiring people as contractors.

Of all companies in Japan, 25.6% had taken such measures as of June last year, according to a survey by the MHWL. In April last year, domestic operating companies in the YKK group eliminated their retirement age; Ezaki Glico extended their period of re-employment after retirement to age 70.

“Our Country’s Elderly, in Statistics” Sept. 19, 2022, Interior Ministry Statistics Bureau

<https://www.stat.go.jp/data/topics/pdf/topics129.pdf>

(2) CPI up 2.8% in August; biggest rise in 31 years, except for consumption tax hike

The consumer price index (CPI) for August, which shows movement in prices of goods and

services consumed by households, was 2.8% higher than that for the same month of the previous year (excluding prices of perishable foods, which are susceptible to influences of weather, etc.). This is the first time in 7 years and 10 months to see a rise of 2.8%. Excepting the effects felt when the consumption tax was raised, it is the first time to see such an increase in 31 years, 11 months.

“2020-Standard Consumer Price Index, All Japan, August 2022 (Reiwa 4)” Sept. 20, 2022
Statistics Bureau, Prime Minister’s Office

<https://www.stat.go.jp/data/cpi/sokuhou/tsuki/pdf/zenkoku.pdf>

(3) Women’s average pay over ¥3 million for first time; gender gap still wide, with women’s pay 55% of men’s--National Tax Agency

The average amount of wages/salary earned by people working for private companies over the year 2021 was 2.4% higher than the previous year, at ¥4.43 million. This was the first increase in three years, as revealed by the National Tax Agency’s “Statistical Survey of Private-Sector Wages” released on the 28th. Women’s average pay was ¥3.02 million, the highest it has ever been, and the first time it has gone over ¥3 million. However, this was still only 55% of the average figure for men, meaning the gender gap in pay is still a major problem.

Men’s average pay was ¥5.45 million. This is higher than it has been since 2002, but still well below the 1997 record of ¥5.77 million.

Overall, *seishain* (full-time regular employees), not including executives, earned on average ¥5.08 million. Other workers (including part-time employees, etc.) made ¥1.98 million. While this figure is higher than before due to raises in the minimum wage, labor shortages, and the introduction of “equal pay for equal work”, it still continues to be less than ¥2 million.