



# Labour Update

## 労組周辺動向 No. 154



2022 - 12 - 09

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) Government working on raising the Childbirth/Childcare Lump-Sum to about ¥500,000 next year: strengthening measures against decline in birth rate

The Childbirth/Childcare Lump-Sum Benefit, paid as an insurance benefit at the time of birth, is currently ¥420,000 per child. The government has now begun deliberations on raising it next year to approximately ¥500,000. The aim is to lighten the burden on families with children, thus strengthening measures to deal with the declining birth rate. Prime Minister Kishida will soon make a final decision, and announce the amount of increase.

Health, Welfare and Labor Minister Kato showed the benefit-hike proposal to the Prime Minister on the 6<sup>th</sup>. Final arrangements have been being worked on within the government. According to the Ministry of Health, Welfare and Labor (MHWL), the average cost of childbirth in fiscal-year 2021 was ¥470,000, which is more than the current benefit amount.

The amount of the 2023 hike will be covered by the same insurers, such as Health Insurance Associations, that have paid the benefit up until now. Beginning in 2024, the plan is to get about 7% of funding from the Advanced Elderly Medical Service System, which enrolls people over age 75.

## (2) Welfare benefit amounts to shrink for some elderly households; recent price rises not reflected

The MHWL released estimates on the 6<sup>th</sup> relating to next year's revisions to the amounts of public welfare benefits. When the amount of "livelihood assistance", which goes toward costs of such things as food and electricity, was compared with the consumption expenditures of average low-income households, it was found that the amount of assistance was 8% too high, especially for elderly households. If the two figures are simply lined up against one another, this would mean the amount of livelihood assistance should be lowered.

This would also apply to some recipients in households with children and some of those of working age. If benefits are cut while consumer prices rise, there is likely to be some backlash.

The amounts of welfare benefits are revised once every five years. The MHWL estimated the expenditures of low-income households based on data from 2019. This does not reflect recent inflation in consumer prices; there will be some debate on how much to consider this in the actual revision of benefit amounts.

"Social Security Council Welfare Assistance Standards Subcommittee Report (Proposed)" Dec. 6, 2022, MHWL Social Security Council Welfare Assistance Standards Subcommittee.

<https://www.mhlw.go.jp/content/12002000/001020190.pdf>

## **2. Legal Violations/Disputes**

### (1) Collective bargaining rights recognized for Uber Eats drivers

A union of drivers for meal delivery service Uber Eats announced on the 25<sup>th</sup> that the Tokyo Labor Commission has granted their claim to have the right to bargain collectively with the company. The Commission judged that the freelance drivers count as workers under the Labor Union Act.

### (2) Amazon refuses demands: drivers seeking improved work environment

A union of freelance drivers who deliver goods for Internet shopping giant Amazon Japan paid a visit to the company's offices in Meguro, Tokyo, on the 25<sup>th</sup> to present a written demand for an environment where they can make deliveries safely, including by keeping proper track of the number of deliveries and the hours they work. The effort was part of an international campaign called "Make Amazon Pay", in which drivers in various coun-

tries, including France and the U.S., sought improved conditions from Amazon during the “Black Friday” sales period.

The drivers take directions from the company via an app to make their deliveries. They are on duty for 13 hours a day starting at 8:00 A.M., and the union has repeatedly heard complaints of being “put in charge of more parcels than we can deliver”, sometimes 200 in a day.

The union is seeking collective bargaining to discuss working conditions. But the company refuses to bargain, insisting that “they work under independent outsourced contracts, and are not employees”. On the 25<sup>th</sup>, when the union tried to hand over their demands, the company refused to receive them.

### (3) Monthly pay ¥100,000 less than advertised: cake shop Madame Shinco ordered to pay

In a labor tribunal case filed by a former employee of popular cake shop “Madame Shinco”, who claimed that his actual monthly pay there was ¥100,000 less than had been advertised on a job-search website, and was seeking back-payment of about ¥2 million, the Osaka District Court has ordered the company that runs the shop to pay the man approximately ¥900,000. The order is dated the 25<sup>th</sup>. The details were told by the man to reporters for the *Mainichi Shimbun*.

In regard to the company, it has also come out that the Yodogawa Labor Standards Inspection Office (LSIO) issued them a citation in April for a Labor Standards Act violation, on the grounds that they had not made the working conditions clear when they hired the man.

In March of 2021, the man applied for a job making cakes at Madame Shinco after seeing the listing on popular job-search website “Indeed”. The job listing noted such conditions as “Monthly pay ¥350,000-¥500,000 (including overtime)” and “2 days off per week”. The hiring manager gave the man a similar explanation in his interview.

One month after beginning work, the man was shown an employment contract by the company. This stated “base pay ¥160,000-¥250,000”. There was no clear mention of overtime pay, but in conversation with the supervisor he confirmed that “monthly pay is ¥350,000”, so he signed the contract.

However, the man says that the monthly pay he received, ¥250,000 during the three-month probation period, went down to ¥170,000 after this period ended. There was no explanation of any reason for the pay cut, so he decided to quit the job.

The Employment Security Act requires companies, when altering working conditions, to make the details clear to the worker. The man claimed that “There was no explanation from the company; I signed the contract based on the details on the job-search site”.

### (4) Overtime unpaid for over 390 people at Sanda City Hospital--total approx. ¥100 million

It has come to light that overtime work has gone unpaid for more than 390 nurses and others at Sanda City Hospital, for a total of about ¥100 million.

Specifically, there were 392 nurses and medical technicians at Sanda City Hospital whose overtime was not paid.

The total amount unpaid, from July of last year through April of this year, is said to add up to ¥100 million.

The hospital received guidance to fix the gap between work records and hours worked, and has up until now back-paid about ¥85 million to 224 people.

#### (5) "Give us unlimited contracts": unprecedented strike by part-time lecturers at Tokai U. in Shizuoka

Part-time (*hijokin*) lecturers at Tokai University's Shizuoka campus (Shimizu, Shizuoka), after getting notice that their contracts would end at the end of this school year, began a strike on the 5<sup>th</sup>, claiming that it is unfair for the university to refuse them a switch to unlimited-term employment. A spokesperson for the Ministry of Education, Culture, Sports, Science and Technology (MEXT) says strikes of university classes are "almost unheard-of". Strikes are planned for the 9<sup>th</sup> as well. Five part-time lecturers are participating.

According to a Tokai University spokesperson, the University gave notice to the lecturers that their employment would end at the end of this academic year for reasons of "revisions to the curriculum due to reorganization of faculties and departments". According to the Tokai University lecturers' union, this includes many who have had their limited-term contracts renewed repeatedly for anywhere from 10 to nearly 20 years.

The lecturers had been demanding that the University obey the Labor Contract Law (which stipulates that workers on limited-term contracts for five years or more gain the right to switch to unlimited-term employment), withdraw the terminations, and grant them unlimited contracts. However, since the University refused to do this, eight teachers, including some at other campuses, filed suit in the Tokyo District Courts claiming Labor Contract Act violations and seeking confirmation of status.

Tokai University has rules in place stating that a "10-year rule" (in place of the "5-year rule") applies to part-timers, based on a special exception for "researchers" that sets the period for gaining the right to an unlimited contract at 10 years rather than 5.

### **3 Situation/Statistics**

#### (1) "Unreasonable differences in treatment" between full- and part-timers: 36% of companies say "no changes"

On the 25<sup>th</sup>, the MHWL released the results of a survey they conducted on the treatment

and conditions of part-time and limited-term workers. With a law having been passed to “forbid unreasonable disparities in treatment” between them and full-time regular workers (*seishain*), the proportion of companies replying that they “had made changes” to conditions was 28.5%. Meanwhile, 36.0% said they “had made no particular changes”. This shows that not enough is being done on this front.

“Reiwa 3 [2021] Part-Time and Limited-Term Workers Situation Survey Summary” Nov. 25, 2022, MHWL

<https://www.mhlw.go.jp/toukei/list/170-1/2021/dl/gaikyo.pdf>

(2) Just over 599,000 births through September; on track to total fewer than 800,000 this year, lowest figure ever

Last year, the number of Japanese children born over the whole year was just over 810,000. If this figure continues to move at the current rate, there is a chance that this year will be the first time since the government began taking statistics that the number of births drops below 800,000.

According to the MHWL, the preliminary reported figure for the number of children born in Japan from January through September of this year (including those of foreign nationality) was 599,636. Compared to the same period of last year, this is a decrease of 30,933 (or 4.9%). The number born in every month from February through August was lower than the corresponding figure for the same month of last year.

The number of Japanese children born over the whole year last year was 811,622. If the current trend continues for the next three months through December, then the total for this year may be below 800,000 for the first time since the national government began keeping statistics in 1899.

“Birth Numbers for 2022 Down by ~5% Year-on-Year, Predicted to Fall Below 800,000” Nov. 10, 2022, Japan Research Institute

<https://www.jri.co.jp/MediaLibrary/file/report/research/pdf/13793.pdf>

(3) Workers’ comp. insurance: victims’ side demands withdrawal of employer complaint policy

Concerning the system where workers’ compensation insurance premiums are raised for workplaces that have work accidents, the government plans to make revisions to enable employers to file complaints. Representatives of workers are demanding this plan be withdrawn. They say it may become a reason for employers to deny recognition and compensation for work accidents, and make them reluctant to take steps to prevent repeat accidents or to enable workers to return to work.

The system of raising premiums is intended to encourage prevention of accidents. Cur-

rently, employers are not able to seek cancellation of either the decision to grant compensation or the decision to raise the premiums.

The government's planned policy is to allow complaints and lawsuits about only the raising of premiums, and to issue a notice about this perhaps within this year. Even if the raising of premiums is canceled, the decision to grant compensation will stand. This is to protect victims and their families.

#### (4) Real wages down for seventh month in a row--drop of 2.6% in October

According to the Monthly Labor Statistics Survey for October, released by the MHWL on December 6 (preliminary figures, companies with 5 employees or more), real wages--accounting for rises in prices--were 2.6% lower than in the same month of the previous year. This is the seventh month in a row of decreases, and the first time since April (when the number began decreasing) to see a drop of over 2%.

According to the preliminary figures for October, total cash earnings were ¥275,888. This is a 1.8% increase. Of these, scheduled cash earnings increased by 1.3%, to ¥250,081, while non-scheduled cash earnings, corresponding to overtime pay, rose by 7.9%, to ¥19,522.

"Monthly Labor Statistics Survey, October, Reiwa 4 [2022] Preliminary Report" December 6, 2022, MHWL

<https://www.mhlw.go.jp/toukei/itiran/roudou/monthly/r04/2210p/dl/pdf2210p.pdf>

#### (5) Outsourced garment company fails to pay interns' wages; Wacoal donates money in support

In relation to the problem of the garment company in Seiyo, Ehime, that failed to pay overtime to its Vietnamese technical interns, clothing giant Wacoal--which outsourced some manufacturing to this company--announced that they have donated ¥5 million to support these interns in their lives. They say that they are also considering steps to prevent a repeat of the problem, such as strengthening auditing of their outsourcing partners.

Eleven Vietnamese technical interns who worked at the garment company in Seiyo, Ehime, are claiming that ¥27 million in overtime (since the year before last) is owed to them, and are demanding back-payment.

#### (6) Welfare applications in September up by 6.0%: rising prices a contributing factor, up for fifth month in a row

The MHWL announced on the 7<sup>th</sup> that the number of applications for welfare assistance in September was 21,368, an increase of 6.0% over the corresponding month of the previous year. This is the fifth month in a row to be up year-on-year. A Ministry spokesperson states that "the recent COVID-19 crisis and rising consumer prices may be contributing

causal factors". We would like to pay close attention to developments in the situation".

The number of households that began receiving welfare benefits in September of this year was 18,397, an increase of 3.2% over the same month of last year. The total number of households receiving assistance, including those already doing so before that month, was 1,644,029, an increase of 0.2%.

"Survey of Welfare Assistance Recipients (September, Reiwa 4, Approximate Figures) Released" Dec. 7, 2022, MHWL

<https://www.mhlw.go.jp/toukei/saikin/hw/hihogosya/m2022/dl/09-01.pdf>