



# Labour Update

## 労組周辺動向 No. 165



2023 - 05 - 12

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) Expert panel preliminary report calls for abolishing Technical Internship, urges new system focused on securing personnel

A government panel of experts, formed to deliberate what is to be done about the Technical Intern system for foreign nationals, held a meeting with the Justice Ministry on the morning of the 28<sup>th</sup> and presented a preliminary report. The report says that the current system, ostensibly for contributing internationally, does not fit the reality. It calls for abolishing this system, and for replacing it with one focused on securing personnel for the labor force.

The government plans to refer to the panel's final report, to be released this Autumn, in submitting a bill to the Diet (perhaps as soon as next year's regular session) that would set up such a new system.

The preliminary report mentions the declining population, and points out that it will be

necessary to ease the worsening labor shortage by “properly taking in foreign personnel”.

The Technical Internship system is meant to be for the purpose of making international contributions by training personnel in skills they can use in their home countries. But the reality is that it is used as a means of securing workers. Therefore the report states that “to continue accepting [these people] as workers, while still claiming international contribution as the only purpose, is not desirable”. It concludes that setting up a new system, one with the purpose of both securing and training personnel, must be considered.

It also brought up making stricter criteria for approving the “managing groups” that oversee companies accepting foreign Technical Interns.

“Preliminary Report (Proposed) (Summary)” Apr. 28, 2023, Ministry of Justice

<https://www.moj.go.jp/isa/content/001395223.pdf>

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(2) COVID-19 to be treated the same as influenza: shifted to “Category 5” on the 8<sup>th</sup>, 3 years after first confirmed case in the country

The legal classification of COVID-19 was changed on the 8<sup>th</sup> from “corresponding to Category 2” to “Category 5”, the same as seasonal influenza. This means that there is no more legal basis for restricting activities, and prevention measures will be left to individuals’ own judgement. This comes three years and four months after the first confirmed case in Japan. It is a large milestone towards exiting the COVID-19 crisis, and returning to normal economic and social activity.

The change to Category 5 means that virus testing and outpatient treatment will no longer be free, but will henceforth require payment. According to the government’s estimates, the first-visit fee will likely be up to ¥4,170.

There will no longer be restrictions on the movements of infected persons and close contacts; the practice of “accommodation treatment”, or hotel quarantine, will in principle be discontinued. Regarding recuperation of those infected, the Ministry of Health, Welfare and Labor (MHWL) advises refraining from going out for five days after developing symptoms, and wearing a mask for ten days. If symptoms are still present on the fifth day, the advice is to not go out until 24 hours after symptoms clear.

New cases have heretofore been reported daily, based on required reporting of all new cases by all medical facilities. This will be replaced with a “spot check” system, where 5,000 designated hospitals and care facilities will submit weekly reports. The MHWL will publish data weekly on its homepage.

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

(1) At May Day “Eve”, women complain of unpaid work time 5.5 times that of men

Women working on issues of gender equality held an event titled “Women’s May Day Eve” (executive committee led) in Shibuya, Tokyo, on April 30. There were about 100 participants, including not only union members but also those connected with women’s support groups.

According to information published by the Organization for Economic Cooperation and Development (OECD) in 2020, the average unpaid work time for a man in Japan was 41 minutes per day, the lowest of any member country. On the other hand, for a woman in Japan it was three hours and 44 minutes a day, 5.5 times that of men, meaning Japan had the largest gender gap of any member nation. Although the number of two-income households is increasing, it can be seen that the burden of taking care of the home is still heavily weighted towards women.

May Day is said to have originated with workers in the U.S. who went on strike on May 1, 1886, to appeal for an 8-hour work day.

The May Day Eve event opened with a speech by Nakajima Yumiko of NUGW Tokyo Nambu, a member of the event’s executive committee, saying “Don’t most women work more than eight hours? Even if we work full-time, we come home to housework and taking care of children. There’s no time to have enough rest, or to do the things we want to do”. Speaking for all women in tough situations, she explained the event’s being held on the “eve” and not the day of May 1 by saying “isn’t it still ‘before 1886’ for us?”

Participating women took turns taking the microphone and voicing their own thoughts. Participants nodded at each others’ opinions and gave applause and cheers of encouragement.

(2) Kumamoto city BoE leaves overtime unpaid for three years--¥8.44 million unpaid to 40 contract employees, unable to give paid leave in exchange

It has come to light that the Kumamoto City Board of Education (BoE) did not pay out-of-hours work allowances (overtime pay) to contract employees (*shokutaku shokuin*, now known as fiscal-yearly appointees) who were ordered to work outside of their contracted hours. These allowances were left unpaid for a period of three years.

According to the After-School Care Department, when schools closed in March of 2020 on account of the COVID-19 pandemic, the employees were ordered to work outside of their normal hours in order to hold club activities--which usually start in the afternoon--in the morning. Afterwards, although the BoE considered giving them time off in exchange, they say that, even after receiving complaints from the care workers, they were unable to give time off due to personnel shortages and increased workloads caused by the pandemic.

The BoE apologized to the 40 workers affected, and after asking them for details of their work situation at the time, back-paid for the overtime in March 2023. The forty staff

members had worked a total of 4,627 hours of overtime, an average of 115 hours per person per year, with the highest number being 388 hours worked by one person in a year. The amount back-paid was an average of ¥200,000 per person.

### (3) Patagonia's Japanese subsidiary gives union rep. notice of firing right before switch to permanent employment

It has been reported that the Japanese subsidiary of world-renowned outdoor gear maker Patagonia (U.S.A.) has given notice of termination to a woman employed part-time who also serves as representative of the employees' union at the subsidiary company. The woman, Fujikawa Mizuho, formed the union with fellow employees in protest at the company's rule that limits part-timers' employment to "up to five years or less". The union insists that this is an "unfair firing", and plans collective bargaining to seek withdrawal of the termination.

Under the Labor Contract Act, when a non-regular employee (employed part-time or limited-term) has worked at the same company for more than five years, if they desire it, they can switch to an unlimited term of employment. However, Patagonia's subsidiary in Japan has a "non-renewal clause" in part-timers' contracts, limiting their employment to five years or less. Ms. Fujikawa called on her colleagues to join a union in order to demand this clause be taken out of the contract. Last year in July, a union was formed with four members. There are currently ten members in the union.

The union has been collecting signatures online since February of this year, saying "We demand a stop to evasion of switching to permanent contracts for non-regular staff". So far, they have gathered more than 17,000 signatures in support.

### (4) Truck driver "dies from overwork"--family sues transport company

Four years ago (in 2019), a man who worked as a truck driver for a transport company based in Katano, Osaka, died of a heart attack while driving. Since he had worked more than the "karoshi line" of 100 hours' overtime in the month leading up to his death, his family has filed suit, claiming that the company took no steps to prevent overly long working hours, and ordered the man to do an excessive amount work.

In the one month immediately preceding his death, the man worked over 100 hours' overtime, known as the *karoshi* line (*karoshi*=death from overwork). There were some months when he worked 199 hours of overtime. Not only this, but sometimes the "interval" (time between finishing one day's work and starting the next) was less than one hour. Therefore, in September of last year (2022), the North Osaka Labor Standards Inspection Office (LSIO) granted the family worker's compensation for the death.

## **3. Situation/Statistics**

### (1) Lawson to allow same-sex partners in company housing; introduces new LGBTQ poli-

cies

Lawson announced on May 1 that it will introduce new LGBTQ policies in order to build a workplace environment that welcomes diverse personnel.

First of all, the company will same-sex partners to live together in company housing. Up until now, only an employee's spouse, children or parents were allowed to live in company housing with them. From now on, same-sex partners who apply to the company for recognition as such will be able to move into the company's housing as a family.

The company will also set up an external office for LGBTQ persons and others to consult anonymously by text. This service will be available not only to Lawson corporate employees, but to franchise store owners and their employees as well.

(2) "Real refugees will be deported, and may lose their lives": immigration law reform bill, supposedly rejected, under debate in Diet again amid strong opposition

A bill to amend the Immigration Control and Refugee Recognition Act ("Immigration Act") is being debated in the Diet. It would expand deportations of those in the country illegally, and its framework is unchanged from the 2021 amendment bill that was rejected among strong opposition from public opinion. Foreign residents and their supporters are strongly against the bill, saying "there are some of us who can't go home". The core of the bill is making it easier to deport those who overstay their visa or otherwise are not legally allowed to stay. The Justice Department's Immigration Bureau emphasizes that "there are many people who avoid deportation, and end up in immigration detention for long periods of time. Among them are some who have criminal records".

The Immigration Bureau insists that the current law, under which one cannot be deported while under application for refugee status, is being abused. The proposed amendment would make it possible to deport a person who has applied repeatedly three times or more. For those who do not go home even after receiving a deportation order, it would introduce penalties, including up to one year of jail time.

However, according to the Immigration Bureau's own statistics, as of 2022, the number of people in the country illegally was about 67,000. This is a decrease of 19% from the previous year, and the number has been going down for a long time. The majority of those who receive deportation orders leave the country on their own. The Immigration Bureau also carries out mass deportations via charter flight. The number of "deportation dodgers", as of the end of 2022, was only about 4,200. Some therefore point out that a change in the law is not necessary in the first place.

Supporters of foreign residents argue that "the ones who refuse deportation are refugees who may be persecuted in their home countries, and people who have family in Japan".

Japan grants refugee status at an extremely low rate compared to other economically developed countries; even in 2022, when more applications were granted than ever before, the rate was no more than 2.0%. People who would be granted refugee status in other countries are rejected here, and this is why some have no choice but to apply again and again. In fact, there are some who, after applying more than three times and then fighting

their case in court, were finally granted.

### (3) WHO declares end of COVID-19 emergency: Director-General Tedros makes announcement

Director-General Tedros of the World Health Organization (WHO, headquartered in Geneva, Switzerland), speaking at a press conference on the 5<sup>th</sup> about the world situation in regard to COVID-19, declared the end of the “Public Health Emergency of International Concern” that began in 2020. This means that COVID-19, the subject of “crisis measures” for the past three years, will be “managed” like other infectious diseases from now on. It has not, however, been wiped out; Tedros emphasized that there remains a risk of outbreaks in the future.

Based on WHO statistics, as of March this year, a worldwide total of 765 million people have contracted COVID-19, and 6.92 million have died from it. Total world numbers of new cases and deaths continue to be the lowest they have been in three years.

### (4) Real wages down 2.9% in March; decreases continue due to high prices of goods

According to the Monthly Labor Statistics Survey for March, released by the MHWL on the 9<sup>th</sup>, the average wage as a real wage, that is accounting for changes in prices, was 2.9% less than the same month of last year. It is the 12<sup>th</sup> month in a row to show a decrease. Although cash earnings have grown due in part to post-pandemic economic recovery, they have failed to keep pace with inflation, meaning a decline in real wages.

The rate of decrease in real wages was about the same as in February. The real wage for fiscal year 2022, to be announced in late May, looks likely to be down year-on-year for the first time in two years.

Total cash earnings per capita, corresponding to nominal wages, were ¥291,081, an increase of 0.8% over the same month of last year. It is the 15<sup>th</sup> month in a row for this figure to be up year-on-year, and about the same increase rate as the previous month.]

“Monthly Labor Statistics Survey, March, Reiwa 5 [2023], Preliminary Results” May 9, 2023, MHWL

<https://www.mhlw.go.jp/toukei/itiran/roudou/monthly/r05/2303p/dl/pdf2303p.pdf>

### (5) *Shunto* pay raise averages 3.67%: RENGU 5<sup>th</sup> tally--high responses continue

On the 10<sup>th</sup>, RENGU announced their fifth tally of company responses to their member unions’ 2023 *Shunto* wage demands as of 10 A.M. on the 8<sup>th</sup>. The average wage increase amount, including regular wage raises, was ¥10,923, or ¥4,763 higher than last year. The rate of increase was 3.67%, which is 1.57 percentage points higher than the previous year, with companies continuing to give high offers.

3,681 unions received responses. The average raise in base pay, received by 2,518 unions, was ¥6,047. According to RENGO, more than seven in ten of those unions that demanded wage increases reached agreements.

Also, even small and medium-sized companies of fewer than 300 employees gave high offers: the average wage increase, including regular raises, was ¥8,328, or ¥3,331 more than the year before. As a percentage, the increase was 3.35%, or 1.33 percentage points more than the previous year's raise.

If this standard of wage raise percentages continues to be seen in the final statistics, to be released in July, it will be the highest in 30 years, hot on the heels of the 3.9% seen in Heisei 5 (1993).