



Labour Update

労組周辺動向 No. 170



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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) Ministry encourages paying severance even for those who quit after a short time: model working rules amended

The Ministry of Health, Welfare and Labor (MHWL) has amended its “model working rules” that it publishes for companies’ reference, removing the rule that “severance will not be paid to those who resign of their own accord after a short amount of time on the job”. The change was made because some have pointed out that “this is a barrier to changing jobs”. The Kishida administration touts a policy of encouraging labor mobility (changing of jobs) into growth industries as a means to increase wages and grow the economy.

The Labor Standards Act requires companies that employ 10 people or more to make work rules. If a company is to have a system of severance pay, the rules must set eligibility and payment methods.

The Ministry puts the model rules on their webpage for companies to refer to when making their own rules. The sentence that has just been removed said: "For those who resign of their own accord, if they have worked less than __ years, severance will not be paid."

The model rules are not binding; there is no need for companies to change their established work rules. However, many companies are said to refer to the model when making rules, so the model is likely to influence companies that will be set up in the future.

Currently, most companies require an employee to work a certain number of years in order to qualify for severance pay. According to a 2021 survey by the Central Labor Commission, a full 51% of companies state "3 years" in case of employees who quit by their own choice, while 39% say between 1 and 3 years. For those who are let go by the company's decision, 55% of companies have rules saying "1 year", while only 11% say "3 years".

"Model Work Rules" July, 2023, MHWL Labor Standards Dept. Inspection Division

<https://www.mhlw.go.jp/content/001018385.pdf>

2. Legal Violations/Disputes

(1) Google Maps history used for granting workers' compensation: overtime recognized despite not being on time card

Workers' compensation has been granted in the case of a man who worked at a food factory and died of an illness, after his overtime hours were calculated with reference not only to his time card, but also to movement history recorded by a smartphone app. Lawyer Okubo Shuichi says that "it is still rare for compensation to be granted based on app records, but we have proven that they can be a valuable resource".

According to Okubo, the man began working for Shimadaya Kanto in 2015. He worked in equipment maintenance at a factory in Fukaya, Saitama, but then died of coronary heart disease in December of 2020. The Kumagaya Labor Standards Inspection Office (LSIO) recognized long working hours as a cause, granting compensation on June 28.

The overtime hours worked by the man in the six months leading up to his death were recorded in company documents, including time cards, as being an average of 67 hours. But by checking movement recorded in the smartphone app "Google Maps", which has a GPS function, the LSIO was able to find out how much time the man had spent at his workplace. The LSIO used this to determine that he really worked about an average of 76 hours' overtime.

The time cards were supposed to be marked with start and end times by machine, but some of them were filled in by hand; there is a possibility these may differ from actual working time. Okubo explains that "there is a possibility for time card records to be ma-

nipulated on purpose, so it is sometimes difficult to determine whether to grant compensation based on them alone. Also, some people may write down notes of their work hours, but using an app is less work for the person concerned”.

(2) Toilet use restrictions “unfair”: first judgement on workplace environment for sexual minorities--METI staffer wins at Supreme Court

The Supreme Court, Third Petty Bench, handed down an appeal verdict on July 11 in the case of a staffer at the Ministry of Trade, Economics and Industry (METI), who is in her 50s and is transgender. The staffer lives her life as a woman, but is listed as male on her *koseki*. She sued for improvement in conditions, claiming that it is unfair that her use of the women’s toilets at work is restricted. Justice Imasaki Yukihiro, presiding, stated in regard to the national government’s policy that “it oversteps the bounds of discretionary authority, and is illegal”, judging the restrictions to be unfair. This opinion was unanimous among the five justices hearing the case. The staffer’s victory in court was thus finalized.

This is the first time that the Supreme Court has made a judgement on workplace environment for sexual minorities (LGBT etc.). The Act to Promote Understanding Toward Sexual Minorities was passed in June, but the national government has no concrete policy on the issue. The ruling is likely to have some effect on how companies behave.

(3) Work accident cover-up on Linear Shinkansen construction site? LSIO files charges

It came to light on July 13 that the Iida LSIO (Iida, Nagano) filed charges against Shigetoyo Construction and a site boss of a Linear Central Shinkansen tunnel construction site in Iida, accusing them of covering up an accident that occurred in April.

(4) Shimizu Corp. employee commits suicide due to overwork: under-reports work time himself, possibly to meet time shortening goals

An employee of construction giant Shimizu Corporation, then aged 29, took his own life in August 2021; it has now emerged that in May of this year, workers’ accident compensation was granted for his death. The man worked long hours of overtime, but altered the records relating to his working time, under-reporting the hours. He had been told by supervisors that achieving a goal of shorter hours would be part of his evaluation, and there is a possibility this had some effect. The company was therefore not aware of his real working hours.

The man died in the company’s housing for single employees, located in Tokyo. When his surviving family claimed to the company that the cause of death may have been related to his work, the company set up a special investigation committee of three outside lawyers. In March of 2022, they put together a report saying that long working hours were the cause. The following month, the company gave the family an apology and a settlement.

The company had a system where work hours were self-reported. Separately, each person’s work computer also had its log-on and log-off times recorded, and supervisors

checked for any disparity between the two.

However, the setup was such that, if one were to leave one's own computer logged on, then log on with one's ID on a shared computer, and log off there, that log-off time would be recorded. The person could then continue working on their own computer without leaving a time record. Of the approximately ten employees working at the site, three (the man in question and two others) did this.

When the investigation committee looked at the computer's operation history to find out the man's real work hours, they found that, in the three months leading up to August 1, 2021--when he is thought to have fallen into depression--he had worked an average of more than 100 hours' overtime per month.

According to the report, the man's supervisor passed around a document in the workplace in May of that year calling for employees to keep their overtime down to 45 hours a month for four months in 2021. The document said that "if you cannot follow the company's rules, please remember it will be reflected in your evaluation". About why the man falsified his log-off times, the report says "the exact reason is unclear", but goes on to state that "it can be thought that the time-shortening goal having an effect on the evaluations could have been a major factor".

The Kameido, Tokyo, LSIO issued a citation in May this year to the company, saying that they had made the man work in excess of the legal working hours, and recognizing the man's death as work-related.

(5) Tax Payment Association managing director commits harassment: scolding unrelated to work for four hours a day, unfairly low salary amount--woman granted workers' compensation for adjustment disorder (Miki, Hyogo)

A woman employed by public-interest corporation the "Miki Tax Payment Association" suffered an adjustment disorder caused by the male managing director's "power harassment" (*pawahara*, or workplace bullying), according to a decision by the Kakogawa LSIO to grant workers' accident compensation, say reporters after hearing from the woman's lawyer. The decision was dated October 12 of last year.

The woman took a job as a member of the association's office staff in October of 2020. Beginning immediately, at least once every three months, she says she was forced to have long personal interviews with the managing director. According to her lawyer, the interviews consisted entirely of scolding unrelated to her work, and sometimes were up to a total of four hours over three times in one day.

During lunch, she was made to stand next to the director and read out irrelevant documents; she was told to do work that would normally be divided between two people; and she was offered a salary amount that was unfairly lower than that of her colleagues.

The woman began suffering from symptoms such as palpitations and insomnia; in March

of last year, she was diagnosed with adjustment disorder, and took leave from work. She has still not gone back to work.

(6) Unfair labor practice found at Yamagata U.--labor commission wins on appeal at Sendai Superior Court, sending case back to lower court

It was an unfair labor practice for Yamagata University to not bargain in good faith with a union regarding faculty members' work conditions, according to a relief order issued by the Yamagata Prefectural Labor Commission. The university had sued to cancel this order; the Sendai Superior Court gave a verdict on July 19 that rejected the university's claim, recognizing that the school's actions "constitute an unfair labor practice".

The verdict rules that, in regard to limiting pay raises and lowering salaries, the university did not provide adequate explanation or documentation, and that "there was a violation of the requirement to bargain in good faith." Even though some time had passed since the bargaining, the court concluded that "it would have been possible to take action afterward".

According to the verdict, the university put limits on raises in 2015 without gaining the agreement of the union. The Prefectural Labor Commission issued its order for relief in 2019.

(7) Employee forced to work more than 100 hours' overtime a month--electronic parts outsourcing company fined ¥300,000

Electronic parts manufacturing outsourcer Sun Family (Nagahama, Shiga) made at least one employee work more than 100 hours of overtime in a month, according to a summary indictment for Labor Standards Act violations brought by the Nagahama local prosecutor before July 19. The indictment is dated July 4. The Nagahama Summary Court issued an order on the 10th for the company to pay a fine of ¥300,000.

3. Situation/Statistics

(1) Real wages shrink by 1.2% in May; down for 14th month in a row

According to the Monthly Labor Statistics Survey for May (preliminary figures; companies of 5 or more employees), released on July 7 by the MHWL, real wages--reflecting shifts in prices--were 1.2% lower than the same month of last year. Although this is the smallest percentage of decrease since January, it is the fourteenth month in a row to show a decrease year-on-year. Total cash earnings (nominal wages) were up year-on-year for the seventeenth month in a row. However, the situation is still one in which increases in wages are failing to keep pace with inflation.

"Monthly Labor Statistics Survey, May, Reiwa 5 [2023], Preliminary Report" Jul. 7, 2023, MHWL

(2) Daikin gives non-regulars same raise amount as full-timers

Daikin Industries announced on July 7 that, in April, it had raised hourly wages by ¥100 across the board for all part-timers and other non-regular staff. This applies to the approximately 1,500 such employees working in Japan. For those who work full-time hours (eight hours a day, five days a week), this would add up to a monthly pay increase of approximately ¥16,000--about equal to that won by regular full-time employees (*seishain*) in the 2023 *Shunto*. With business performance strong and prices rising, the aim is to heighten morale among all the company's workers.

(3) July Reuters survey: 6 in 10 companies to raise prices this year, 4 in 10 to raise them next year--labor costs a factor

Responding to a survey of companies done by Reuters in July, only three-tenths of those answering said that they had managed to cover rising costs with previous price increases; six in ten said that they were planning to pass more costs on to customers within this year, while four in ten said they would do so next year. Rising of prices seems likely to continue; in addition to materials and energy, the growing cost of labor is also becoming a major factor.

The survey was carried out from July 5th to 14th. Survey papers were sent to 504 companies; the number that answered was 255.

In answer to the question "Have you been able to cover the amount of rising costs with previous price increases?", 29% of companies answered that they had been "mostly able" to do so. A further 33% said they had been able to cover "about 50%" of increased costs, 21% said they had covered "about 30%", and 17% said they had been "unable" to cover costs. This shows that two-thirds of companies have still been unable to pass enough costs on. Answers of "unable" were especially seen in non-manufacturing industries such as construction, real estate, and service.

In regard to future price hikes, six in ten companies answered that they are planning to do so within this year, while four in ten responded that they are considering raising their prices next year. As a reason for raising prices, the greatest number, 79%, named "increasing cost of materials". But with labor shortages also worsening, particularly in the tourism and restaurant businesses as well as other service industries, there were also 60% who answered "labor costs".

The transport industry is also facing its so-called "2024 Problem", where the amount of goods shipped increases while upper limits on overtime work come into force, leading to a worsening shortage of delivery drivers. This led some companies to also answer "transport costs" as a reason, referring to the cost of securing transport personnel.