



Labour Update

労組周辺動向 No. 204



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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) LSIO to establish consultation window for “pseudo-freelance” workers: to open in November when new law takes effect!

The Ministry of Health, Welfare and Labor (MHWL) will be setting up consultation windows at Labor Standards Inspection Offices (LSIOs) across the country in order to hear consultations from people doing “pseudo-freelance” work--in other words, workers who, while not having an employment contract, and therefore being in the “freelance” category, are actually in a working situation that may make them “workers” under the Labor Standards Act. These windows will begin operation on November 1, when the “new freelance law” to protect freelance workers goes into effect.

This is a part of dealing with “fake freelancing”, in which, despite being really in the situation of “workers” under the law, these individuals are treated as freelancers with no employment relationship so that businesses can avoid employer responsibility under the labor laws, and are not eligible for health and pension insurance. Consultations from such

“freelancers” (who may be *de facto* employees) are expected to include problems such as being forced to work long hours, or having wages go unpaid.

“‘Consultation Window on Labor Standards Act Violations, Etc., for Persons who May Be Workers Under the Law’ to be established at Labor Standards Inspection Offices” Oct. 25, 2024, MHWL Labor Standards Dept.

https://www.mhlw.go.jp/stf/newpage_44487.html

“Check Your Work Style: Aren’t You Actually a ‘Worker’?”

<https://www.mhlw.go.jp/content/11202000/001283001.pdf>

(2) LDP-Komeito coalition fails to reach majority, first time in 15 years: falls short of PM Ishiba’s goal

Votes were cast and counted in the 50th House of Representatives election on October 27; the governing coalition of the Liberal Democratic Party (LDP) and Komeito lost a lot of seats compared to the 279 they had before the election, falling below the 233 seats they needed for a majority. This is the first time in fifteen years--since 2009, when the Democratic Party formed a government--that the LDP-Komeito coalition has failed to gain a majority in the lower house. Of the 46 Diet members who were implicated in the LDP factions’ dark-money scandal, 28 lost their elections, while 18 still won. Komeito chief representative Ishii Keiichi also lost his seat. This means Prime Minister Ishiba Shigeru, whose stated goal was a coalition majority, will have his responsibility questioned; he may search for ways to expand the coalition. The Constitutional Democratic Party (CDP) received votes of those critical of the government, and gained a large number of seats, over 140, compared to 98 before the election. The Democratic party for the People (DPP) won four times as many seats as before (going from 7 to 28); the Japan Innovation Party lost seats.

Seats won by each party (and number before election):

LDP: 191 (247)

Komeito: 24 (32)

CDP: 148 (98)

Innovation: 38 (44)

JCP: 8 (10)

DPP: 28 (7)

Reiwa: 9 (3)

SDP: 1 (1)

Sanseito: 3 (1)

Minor parties: 3 (0)

Indep. (gov’t.): 6 (16)

Indep. (opp.) 6 (6)

(3) NHI maximum premium to be raised by ¥30,000 next year, to ¥920,000

In order to improve the finances of the insurance system, the MHWL has decided on a plan to raise the maximum yearly National Health Insurance (NHI) premium for high-income earners by ¥30,000, making the new maximum ¥920,000 per year. NHI is the system into which people enroll who are self-employed, etc., as opposed to the system for those employed at companies. This will be the fourth year in a row to see this maximum increased.

The Ministry was working on revisions to insurance premiums for NHI--which enrolls not only the self-employed, but also part-time workers and others--because the system's finances were deteriorating as a result of the aging of the population. On October 31, the Medical Insurance Subcommittee of the Social Security Council presented their proposal.

The proposal suggests raising the upper limit for the system's yearly premiums, which are based on the enrollee's income, from the current ¥890,000 to ¥920,000, an increase of ¥30,000.

"Regarding the Maximum Limit on of Assessment of National Health Insurance Insurance Premium (Tax)" Oct. 31, 2024, MHWL Insurance Office

<https://www.mhlw.go.jp/content/12401000/001323477.pdf>

(4) "Suffering harassment" explicitly listed: transfer conditions for foreign interns clarified

To deal with the issue of the treatment of Foreign Technical Interns--many of whom have disappeared or seemingly fled from abusive workplaces--the Immigration Agency has clarified the conditions under which it will allow for these interns to change workplaces (transfer jobs). Transfers will be possible when interns have suffered violence or various sorts of harassment, or where there have been major breaches of their contract. The aim is to protect these interns' human rights and improve their rights as workers. The announcement was made on November 1.

Technical Interns are, in principle, not allowed to transfer jobs for three years. Transfers were allowed as an exception when there were "unavoidable circumstances". However, this was not clearly defined; it was pointed out that this made it difficult for interns to change jobs even when their human rights were infringed. In 2023, out of 510,000 interns, 9,753 went missing, the highest number ever. This year, it was decided to introduce a "Work and Training" program by 2027, in which participants would be able to change jobs a certain length of time after beginning work. But until then, the Technical Intern system is set to continue operating for another few years, so improving the interns' conditions had become a pressing issue.

"Guidelines for Changing Residence Status or Extending Period of Residence" Nov. 1, 2024

https://www.moj.go.jp/isa/applications/resources/nyuukokukanri07_00058.html

(5) Public high-school teachers may get paid overtime: proposal would scrap fixed amount, reflect hours worked

It came to light on the 3rd that a plan to improve working conditions for public school teachers has been floated by the government and is currently under review by relevant ministries and agencies. This proposal would abolish the current “Teachers’ Adjustment” system, in which, instead of being paid for overtime hours, teachers receive a fixed allowance amount on top of their base salaries. Relief from overly long work hours for teachers is becoming an urgent issue; the aim of the new plan is, by switching to a system in which pay reflects actual hours worked, to give administrators an incentive to avoid overworking teachers. If the plan is adopted, it will mean a fundamental change to teachers’ working conditions. While some are calling for necessary legislation to be submitted as soon as possible, there are still concerns about how to make the plan effective, such as ways for those in charge to keep proper track of the hours that teachers work. There appear to be differences of opinion within the government as well, so it is likely there will be difficulties in bringing the plan to fruition.

(6) Safe work environments for the working elderly: as accidents increase, MHWL to make it a duty of effort

With the number of work accidents increasing as more and more people continue to work into old age, the MHWL has decided to make it a duty of effort for companies to arrange for a working environment that gives consideration to elderly workers. At a Labor Policy Council subcommittee meeting on November 6, representatives of labor and industry agreed on the main points of a plan. The Ministry plans to submit a bill to the regular session of the Diet in 2025 to amend the Industrial Health and Safety Act.

The number of elderly workers is increasing due in part to labor shortages. The number of workers aged 65 or older in 2023 was approximately 9.14 million, a new high record. According to the MHWL, the number of workers aged 50 or over, as a proportion of the total workforce, increased to 41.4% in 2023, while that of workers 60 or over rose to 18.7%.

At the same time, the number of industrial accidents involving elderly workers has also increased. Of those injured or killed in work accidents in 2023, 55.7% were 50 years old or older; 29.3% were 60 or older. The incidence rate of accidents, regardless of industry, is tending upwards for older workers; it appears that risk increases with weakening muscle strength and sense of balance.

The idea behind legislating a duty of effort for companies is that this will lead to progress in dealing with the problem.

“Regarding Prevention of Accidents for Elderly Workers (Part 3): 170th Health and Safety Subcommittee Documents” Nov. 6, 2024, MHWL Labor Standards Dept.

<https://www.mhlw.go.jp/content/11201250/001325694.pdf>

2. Legal Violations/Disputes

(1) U.S.: Boeing union approves new agreement--38% raise, end of strike

On November 4, a union of workers at U.S. aircraft maker Boeing approved an agreement proposed by the company, whose main point is a 38% raise in pay over four years. The vote was 59% in favor of accepting the agreement. This ends a strike that had gone on for over a month and a half, since September.

(2) University teacher's lawsuit: Supreme Court overturns previous appeal decision that granted unlimited-term employment, sends case back to Superior Court

In a lawsuit filed by a woman who worked as a full-time lecturer at Haboromo University of International Studies (Sakai, Osaka), and who claimed she was illegally terminated from the job, the Supreme Court, First Petty Bench, on October 31 overturned an Osaka Superior Court decision that had been in the woman's favor, sending the case back to the Superior Court.

The case was fought over whether, in this woman's case, the rule for granting unlimited-term employment should be five or ten years.

The first ruling, by the Osaka District Court in January of 2022, was that the woman's job--she was in charge of nursing-care training courses--constituted "work at an institution of education and research, requiring especially diverse personnel". Therefore the unlimited-term contract switch would be under the 10-year rule, for which the woman did not yet qualify.

On appeal, the Osaka Superior Court reversed this decision in January of 2023, saying that the woman's job should be under the 5-year rule, and that therefore she should be granted unlimited-term employment.

(3) Pressured to quit, called "rotten oranges"--Otemon Gakuin apologizes, settles case

A settlement was reached on November 6 in a lawsuit that was filed by three employees of school corporation Otemon Gakuin. At a staff training, trainers called them names such as "rotten oranges" and pressured them to resign. They insisted this treatment was illegal, and sued the school's former Chief Director and the company that was contracted to do the training, demanding compensation of a total of about ¥36 million. The company has agreed to make an apology, and to pay the men a total of approximately ¥92 million, including back-payment of their salaries.

The Labor Standards Inspection Office (LSIO) had granted the men workers' accident compensation as of January of 2023. The school corporation accepted the men's claim to confirmation of their employee status, but rejected their other claims, including the claim for damages.

(4) "Email encouraging me to quit the union": OTIT settles case with union

In a lawsuit filed by a labor union against the Organization for Technical Intern Training (OTIT)--in which it was claimed that OTIT, by sending an email to Vietnamese interns to encourage them to quit the union, had violated their right as workers to organize--the Organization settled on October 31, agreeing to pay a monetary settlement.

3. Situation/Statistics

(1) Court decision cancels cuts to welfare benefits

Between 2013 and 2015, the national government lowered the standard amount of welfare benefits. Recipients sued the national government and local governments, to cancel these cuts, claiming that the cuts infringed on their right to survival as guaranteed by Article 25 of the Constitution. On October 28, the Okayama District Court (Judge Ueda Kayo presiding) handed down a ruling that voided the decision to cut benefits, except for those recipients who were deceased. The plaintiffs' claim to damages for pain and suffering, however, was rejected.

(2) Civil law provisions not allowing same-sex marriage is "unconstitutional": Tokyo Superior Court--second such decision from a Superior Court

Provisions in the Civil Code, etc., that do not allow same-sex marriage are in violation of the Constitution, say seven plaintiffs, including same-sex couples, who live in Tokyo. In a suit by these seven against the national government, the Tokyo Superior Court (Judge Taniguchi Sonoe presiding) ruled on October 30 that the laws infringe on the "equality under the law" that is protected by Article 14 of the Constitution, and are therefore "unconstitutional". The claim for compensation, however, was rejected by the Court.

There have been six similar suits in five District Courts in Japan; this is the second Superior Court ruling on one. The first, at Sapporo District Court in March, also found that the civil law provisions were unconstitutional.

(3) ¥64.8 billion of public money handled improperly, says Board of Audit

The Board of Audit, which examines how the national government uses its budget, has released its audit report for last fiscal year. The report points out a total of ¥64.8 billion of inappropriately handled public money, including large amounts improperly received for projects relating to COVID-19 measures.

Looking at amounts for each government ministry, the Ministry of Agriculture, Forests and Fisheries had the largest amount of mishandled funds, over ¥35.34 billion, while the MHWL came in second with ¥7.76 billion. The Ministry of Land, Infrastructure and Transport had ¥2.32 billion.

“Summary of Audit Report for Fiscal Year Reiwa 5 [2023]”, Nov. 6, 2024, Board of Audit

https://www.jbaudit.go.jp/report/new/summary05/pdf/fy05_gaiyou_zenbun.pdf

(4) UA Zensen plans plans *Shunto* goal for next year: “guideline of 7%” wage increase for non-regular workers

The Japanese Federation of Textile, Chemical, Commerce, Food and General Services Workers' Unions (UA Zensen), the largest industrial union belonging to RENGO, has announced that, in next year's *Shunto*, their goal for part-timers and others in “non-regular” employment will be a wage increase of “7% as a guideline”. For the union as a whole, the goal, including regular raises, will be “6% standard”. This is a high level, more than that planned by the broader RENGO federation.

UA Zensen is an industrial union composed of approximately 2,200 smaller unions in industries such as textiles, transport, and services. It has over 1.9 million members, making it the largest organization within RENGO; many part-time and other non-regular workers, as well as those working for small and mid-sized companies, are members.

(5) Real wages down in September by 0.1%--second month in a row of negative growth, wages failing to keep pace with inflation

According to the Monthly Labor Statistics Survey for September (preliminary figures, for companies of 5 or more employees), released by the MHWL on November 7, real wages (calculated by adjusting total cash earnings, or nominal wages, for changes in prices) were 0.1% lower than in the same month of the previous year. This is the second month in a row to show negative growth year-on-year. Although the pace of inflation has slowed, growth in wages has still not caught up.

“Monthly Labor Statistics Survey: September, Reiwa 6, Preliminary Results, Etc.” Nov. 7, 2024, MHWL

<https://www.mhlw.go.jp/toukei/itiran/roudou/monthly/r06/2409p/dl/pdf2409p.pdf>