



Labor Update No.76 Dec. 13, 2019

***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)Kosei Nenkin expansion, 450,000 to become eligible: MHWL estimate based on companies of 101 employees or more

In regard to the expansion of *Kosei Nenkin* (Employees' Pension) eligibility to include those who work in "non-regular" employment (part-timers etc.), the Ministry of Health, Welfare and Labor (MHWL) was reported on the 4<sup>th</sup> to have made a trial calculation showing that, if the company size criterion for eligibility--currently 501 employees or more--were lowered to 101 or more, 450,000 people would newly become eligible for enrollment. Since the cost of premiums is shared evenly between employee and employer, companies' pension premium costs would increase by 113 billion yen.

The intention is to lower the criterion to 101 or more starting in October of 2022, then to 51 or more in October of 2024. If lowered to 51 or more, another 200,000 people would become eligible.

### (2)Eligibility for workers' compensation at multiple jobs: MHWL indicates plan to promote second and side jobs

The MHWL has shown a plan to a subcommittee of the Labor Policy Council concerning the granting of industrial accident compensation to those who work at multiple workplaces. The plan has been accepted. Regarding compensation for absence from work, an amount will be decided by adding together the wages from the workplace where the accident occurred with those from any other workplace, making the worker able to receive a compensation amount based on their actual income. The government is encouraging workers to take second jobs or side jobs, and will be expanding the safety net in line with the diversification of work styles.

A bill to amend relevant laws will be submitted to next year's regular session of the Diet, with an aim to have it be put into effect within next year.

"82<sup>nd</sup> Mtg., Labor Policy Council Labor Conditions Section Industrial Accident Subcommittee, Document 1: In Regard to the Provision of Industrial Accident Compensation to Those Working at Multiple Jobs (Summary of Points So Far) (Proposed)" linked below (in Japanese):

<https://www.mhlw.go.jp/content/11601000/000574648.pdf>

### (3)Merging of Kokumin Nenkin and Kosei Nenkin funds under consideration

The MHWL is considering merging the funds for *Kokumin Nenkin* (the National Pension) and *Kosei Nenkin* (the Employees' Pension), which are currently managed separately. The aim is to use the *Kosei Nenkin* fund, whose finances are relatively stable, to boost the pension standard of *Kokumin Nenkin*, which otherwise will drop sharply in the future. However, as it involves the independence of the systems, it will require careful debate. The Ministry aims to submit a bill to the Diet in 2025.

The government's intention is to submit a pension reform bill, including expanded eligibility for *Kosei Nenkin*, to next year's regular Diet session. Once this has passed, next summer or later, the MHWL plans to begin concrete deliberations in the Social Security Council in regard to merging the funds.

With *Kokumin Nenkin*, even now the full pension amount is only about 65,000 yen per month. Since this amount decreases even further depending on how one has paid in, there is a problem of what to do about people getting little or no pension. The MHWL is considering merging the pension funds without changing the structure of pension premiums or payments for either *Kokumin Nenkin* or *Kosei Nenkin*.

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

### (1) Salesman's death recognized, in reversal decision, as being from overwork--LSIO had rejected claim, saying "driving is not work"

A Labor Bureau has overturned the decision of a Labor Standards Inspection Office in the case of a salesman who died suddenly at a business hotel while on a work trip. The LSIO had decided not to recognize the death as an industrial accident (overwork death); the salesman's bereaved family appealed this decision to the Labor Bureau, which has now reversed the LSIO's decision and granted compensation.

Lawyers representing the family clarified the details of the case and said "only five percent of cases are granted by reversal on an appeal for review. This decision was made by carefully considering the case".

### (2) Illegal overtime again at Dentsu: further citation even after guilty verdict

It has come to light that the Tokyo headquarters of advertising giant Dentsu received a citation in September from Mita Labor Standards Inspection Office (Tokyo) for violations of the Labor Standards Act and the Labor Safety and Health Act. The citation pointed out employees' illegal overtime work, as well as illegal extension of the agreement setting a limit on overtime (*saburoku kyotei*, "3-6 agreement"). Dentsu Corporation was handed a guilty verdict in 2017 for violating the Labor Standards Act by neglecting to take measures against illegal overtime. But they seem to have continued with their careless labor management.

### (3) Uber union protests cut in pay, demands collective bargaining

Claiming it was unfair for delivery service Uber Eats, run by American company Uber Technologies, to unilaterally cut delivery workers' pay, the delivery workers' union visited the Japanese subsidiary in Shibuya Ward, Tokyo, to protest the cut and also to demand the company agree to collective bargaining. The union chair said in a press conference that "per month, we will lose tens of thousands of yen in pay. There was no

explanation, and we cannot accept it.”

(4)Former Rakuten employee granted worker’s compensation--violence from boss, suffered aftereffects; company denies responsibility

A man who was working for major online shopping site Rakuten suffered injuries to the neck and also contracted depression, the cause of both of which was violence from a superior at work, according to the Shibuya Labor Standards Inspection Office (Shibuya-ku, Tokyo), which, it has become known, has granted the man approval for industrial accident compensation. Rakuten denies that their company has any responsibility, saying “it was nothing but a quarrel between employees”; the man will soon be taking legal procedures to claim damages.

Rakuten refused to give the man the employer’s stamp for his industrial accident application form, and have denied any responsibility.

(5)Newly-hired employee at Mitsubishi Electric commits suicide; supervisor in charge of education faces charges of instigation

A male employee newly hired at Mitsubishi Electric committed suicide in August. The Hyogo Prefectural Police, Mita Precinct, have sent documents to a prosecutor charging another male employee, who was in charge of education at the time, with instigation of suicide.

At Mitsubishi Electric between 2014 and 2017, five male employees (who worked as engineers or researchers on system development, etc.) were granted workers’ compensation one after another. It has become clear that two of these committed suicide. Also, another man in his 40s, who worked at a subsidiary company, contracted a mental disorder due to long working hours while employed at a factory in Toyooka. He, too, committed suicide, in December of 2017. In October of this year, industrial accident compensation was granted to his family.

(6)Charges filed in case of death from heatstroke at Osaka’s Hirakata Park: male part-time costume performer

In the case where a man who worked part-time (*arubaito*) at Hirakata Park, a theme park in Hirakata, Osaka, died from heatstroke while wearing a character costume, the Osaka Labor Bureau has sent documents to the prosecutor charging the operating company, Keihan Leisure Services, and its president with violating the Labor Safety and Health Act.

(7)Concerned members of Japan Labor Law Association Protest Investigation in Kansai Ready-Mix Incident

The All-Japan Construction and Transport Solidarity Union Kansai Regional Ready-Mix Concrete Branch, a union made up of workers in the cement and concrete industry, has seen its leaders arrested and accused of extortion. Seventy-eight concerned members of the Japan Labor Law Association, an organization of about 700 lawyers and researchers, have now issued a statement protesting the whole sequence of police investigations. They say police are ignoring the basic rights of labor guaranteed by the Constitution.

The statement points out that “justified union activities are being punished as crimes, so the basic rights of labor outlined in the Constitution are not being guaranteed. We strongly protest this arbitrary and unconstitutional enforcement by the police and prosecutors”. Furthermore, it notes that “the guaranteed protection of union activities built up after the war is being ignored on purpose”.

“Statement: We Cannot Overlook the Unbelievable Police Suppression of Union Activities: Statement by Concerned Members of the Japan Labor Law Association Regarding the Kansai Ready-Mix Incident” linked below (in Japanese):

[http://bit.ly/statement\\_of\\_protest](http://bit.ly/statement_of_protest)

#### (8) Unpaid overtime for 30,000 workers at 7-11: 490 million yen for part-timers and others since 2012

Seven-Eleven Japan has announced that some workers’ overtime has gone unpaid at member stores in locations across the country. The cause was a mistake at headquarters; this had been going on since the 1970s. Since March of 2012 alone, which is as far back as data is kept at headquarters, a total of 30,405 employees at 8,129 stores had unpaid overtime. The total amount, including 110 million yen in late-payment penalties, adds up to 490 million yen.

Although the company was aware of unpaid overtime as early as 2001, they did not announce it, and unpaid overtime from before that was left as is.

#### (9) “Black Company” awards: Yoshimoto Kogyo, Nagasaki City and others nominated

The “Most Evil Corporation of the Year Awards”, also known as the “Black Company” awards, are given to companies noted for having a bad working environment, including such things as long working hours, sexual harassment and “power harassment” or workplace bullying. The nine nominees for 2019 have been announced.

The nine nominated employers are as follows. Nominees are chosen based on information from news reports, lawsuits etc.

KDDI Corporation  
Seven-Eleven Japan  
Dentsu Inc.  
Lopia Co., Ltd.  
Nagasaki City  
Toyota Motor Corporation  
Mitsubishi Electric (Melco Semiconductor Engineering Corporation)  
Yoshimoto Kogyo Co., Ltd.  
Rakuten, Inc.

### **3. Situation/Statistics**

#### (1) RENGO (Japanese Trade Union Confederation) announces “2020 Policy for Spring Struggle for a Better Life”

<https://www.jtuc-rengo.or.jp/activity/roudou/shuntou/2020/houshin/data/houshin20191203.pdf?4389>

## (2)“1 in 10”people LGBT: questionnaire survey of over 340,000 people

In a questionnaire survey regarding sexual orientation (the sex of those one is attracted to) and gender identity (the gender one feels oneself to belong to), about 10 percent of the approximately 348,000 respondents met the definition of sexual minority, or LGBT. The Japan LGBT Research Institute, which carried out the survey, states that “it has been shown with numbers that the issue concerns one in ten people. There is a need for us as a society to face this fact properly”.

## (3)Economy Ministry staff member with Gender Identity Disorder banned from toilet: Tokyo District Court orders national government to pay compensation

A staff member at the Ministry of Economy, Trade and Industry was forbidden from using the women’s toilets, as well as having limited places on being transferred, due to her gender being listed as male on the family register.

Tokyo District Court has handed down a verdict in the lawsuit filed against the government by the staff member, who has gender Identity Disorder and claims that the measures taken were illegal. The staffer sought improved treatment at work and compensation.

The ruling held that it was illegal for the national government to forbid the staffer the use of the women’s toilets, and ordered payment of approximately 1.32 million yen in compensation.

## (4)Suicide and legal violations at Olympic construction sites: IOC “to seek solutions”

Concerning the various problems with the labor environment that have been pointed out in the construction of facilities for the 2020 Tokyo Olympics and Paralympics, the International Olympic Committee (IOC) has expressed an intention to cooperate with the International Labor Organization (ILO) and others on seeking solutions. Persons in charge state that “we have agreed to let the ILO take the lead in the search for solutions to these problems. The IOC is also deep in discussions, and we have hope that the problems will be solved”.