



Labor Update No.81 Feb. 21, 2020

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 aid for wage increases to non-regular workers shows little sign of success: budget increased despite little use

In regard to the system whereby the government will give subsidies to companies that raise wages for non-regular workers (part-timers, contract employees, etc.) based on the number of people involved, it has become clear that the system has so far only been applied to a few people, far fewer than the 7,000 predicted. Despite the fact that the system is barely being used yet, the government has increased the budget for it in fiscal year 2020 to 700,000,000 yen, 200,000,000 more than last year. The Abe administration's centerpiece policy of encouraging companies to raise wages is having its price tag gradually increased, despite being inadequately tested.

The government is pushing "Equal Pay for Equal Work" measures to eliminate unreasonable wage disparities between regular and non-regular workers, but the response from industry is slow. RENGO is also putting efforts into improving wages and conditions, but the encouragement effect of subsidies seems set to remain limited.

(2) Taking nursing leave by the hour to become possible beginning January next year

The Ministry of Health, Welfare and Labor (MHWL) is revising the system of nursing leave, taken in order to care for elderly parents, sick children, etc.--which can currently be taken in units of one day or half a day--to make it possible to take leave by the hour. They will be bringing the new system into effect starting in January of next year. More and more people are working while taking care of relatives or raising children, and making it easier to take leave will enable more people to do both.

"Family-care leave" can be taken for a maximum of five days per year per relative needing care, while "Sick/injured child care leave" can be taken for up to five days per year per pre-school-aged child. Both are currently available to be taken in units of one day or a half-day at a time. Starting next January, it will be possible to take leave in hourly increments at the beginning or end of the work day. It will also still be possible to take the full day off, as before.

"Mid-day breaks", where one leaves work temporarily in the middle of the working day,

were not included as part of the new system.

Leaflet: “Sick/Injured Child Care Leave and Family-Care Leave Will be Able to be Taken by the Hour” linked below (in Japanese):

<https://www.mhlw.go.jp/content/11900000/000582033.pdf>

“Q&A Regarding the Taking of Sick/Injured Child Care Leave and Family-Care Leave by the Hour” (MHWL) linked below (in Japanese):

<https://www.mhlw.go.jp/content/11900000/000582061.pdf>

(3) Japan Health Insurance Association releases table of insurance premiums for fiscal year 2020

Starting March 2020.

<https://www.kyoukaikenpo.or.jp/g3/cat330/sb3150/r02/r2ryougakuhyou3gatukara/>

(4) MHWL makes a leaflet outlining “Equal Pay for Equal Work”

https://www.rosei.jp/lawdb/common/data/pamphlet/file/000106480_file1.pdf

(5) Q&A (for businesses) on new-type coronavirus (edition as of February 21, 2020)

https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/kenkou_iryuu/dengue_fever_ga_0007.html

2. Legal Violations/Disputes

(1) LSIO conducts inspection at office of Dietmember Inoue Shinji on suspicion of Labor Standards Law violations

It has been reported that the office of LDP Dietmember Inoue Shinji was subjected to an on-site inspection by the Labor Standards Inspection Office on suspicion of violations of the Labor Standards Act.

There is said to have been a claim by Inoue’s former secretary that “I never received a labor contract when I started work at the office, and there was unpaid late-night work and overtime work”.

(2) One in four doctors working at university hospitals go unpaid: results of online survey

The National Doctors’ Union (Zenkoku Ishi Union), a union of hospital doctors, has done an online survey of doctors and dentists aiming to become specialists, as well as graduate students who do treatment at university hospitals, and found that one in four had not received pay. The National Doctors’ Union and the Labor Lawyers’ Association of Japan have sent notices to hospitals requesting they treat doctors appropriately, and submitted a written request to the MHWL for an investigation by the LSIO.

In regard to pay, the most common answer was “I have no contract and no pay”, at 19.5%. When the 7.3% who answered “My contract specifies there is no pay”, this means about one in four were unpaid. Another 19.5% answered that they received “only a grant of a few tens of thousands of yen”.

(3) Unpaid overtime totals over 70 million yen since December 2016: Kasukabe City, Saitama

It has come to light that 292 employees of the city government of Kasukabe, Saitama, had their extra-duties allowances (overtime) unpaid since December of 2016. The total unpaid amount was 70.85 million yen. The city has announced they will add 66.73 million yen to their supplementary budget for March of fiscal 2019 to cover part of this back-payment, along with late-payment damages.

The city announced last November that they owed a total of 11.09 million yen in unpaid extra-duties allowances to 40 employees. A further investigation of all city government offices uncovered 59.75 million yen more owed to 256 employees, including four of the same people. The amount discovered first has already been back-paid; the remaining amount owed to the 256 employees will be added to the March budget.

(4) 150 file suit seeking “Equal pay for Equal Work” at Japan Post

About 150 non-regular employees (part-timers, etc.) working for Japan Post have filed suit in six district courts across the country, seeking correction of disparities between themselves and the regular staff. They claim the differences violate the Labor Contract Act, which forbids setting unreasonable disparities in bonuses, allowances or holidays between regular and non-regular employees.

In April of this year, laws and policies (guidelines) related to “Equal Pay for Equal Work” will be put into effect. But how each company will deal with this is in large part left to negotiation between labor and management, or to the judgement of the courts. By filing suit on this unprecedented scale, they say they will demand a solution from the company.

According to the plaintiffs, they are seeking correction of disparities not only in bonuses, but also in housing allowances, New Year holiday work allowances, other holiday allowances, and family allowances. They are claiming compensation for damages on the basis that these disparities are in violation of Article 20 of the Labor Contract Act, which forbids the setting of unreasonable differences in treatment based on whether one’s contract is limited-term or unlimited.

Similar lawsuits against Japan Post have been filed before, but the Superior Courts in Tokyo, Osaka and Fukuoka held the differences in bonuses not to be unreasonable, and courts’ decisions have varied on other points. Therefore these have now moved to the Supreme Court.

Article 20 of the Labor Contract Act was passed by a Democratic Party government, and came into effect in 2013. Under the policy of “Equal Pay for Equal Work” touted by

the Abe administration, it was decided to amend the Act, and it will be combined with the Part-Time and Limited-Term Labor Act that is to come into force this April. At the same time, a policy will be announced to indicate what types of cases should be a problem and which should not.

3. Situation/Statistics

(1) Switzerland forbids discrimination against sexual minorities: majority approve amendment in referendum

A referendum has been held in Switzerland on a legal amendment to forbid discrimination against sexual minorities, with 63% voting in favor. In Geneva, a large city, the vote was a full 76% in favor, but in some areas the majority locally voted against the measure.

Parliament members who had pushed for the amendment welcomed the news, announcing on public broadcaster RTS1 that “this is a historic day”. Meanwhile, politicians who opposed it expressed reservations, saying “this will open the way to same-sex marriage” and “we will defend our Christian values”.

The amendment adds language referring to sexual orientation to a preexisting law banning discrimination on the basis of ethnicity or religion. It was passed by Parliament in 2018, but those opposing it expressed worries it could lead to restrictions on free speech, so the matter was put to a referendum.

(2) Mitsubishi UFJ Bank union abandons demand for across-the-board raises, accepts disparity based on evaluation

For the 2020 *Shunto* (spring labor offensive), the union at Mitsubishi UFJ Bank has decided to give up their previous policy of demanding the same amount of raise in base pay across the board. In reference to an offer from management, they will demand “overall pay” including salary and bonuses for all bank staff. They will accept the setting of differences in the salary part based on personnel evaluation. The union at Toyota Motors has also accepted disparities in pay raises for this year’s *Shunto*. With top companies in the finance and automotive industries proceeding with evaluation-based raises, there is a possibility this move could spread throughout industry.

In answer to last year’s *Shunto*, the management at UFJ proposed negotiating on overall pay, and setting disparities in salary. Bank staff who receive a high evaluation will receive a larger pay raise, and those with a poor evaluation will receive less. After nearly a year of talks between management and labor, it is reported there is likely to soon be a formal agreement.

(3) Toyota union moves to cancel *Shunto* rally: “discussion, not confrontation”

The labor union at Toyota Motors is preparing to call off the rally that was to be held in early March at the peak of *Shunto*. As *Shunto* discussions become more diversified, and the environment surrounding the automotive industry becomes harsher, they appear

to have judged that “rather than take an openly confrontational stance of labor versus management, it is more important to deepen discussion”.

The union at Toyota usually holds a large rally in early March, when *Shunto* activity is at its peak, to show management their determination to win increased pay. This year, however, they are preparing to cancel this rally.

The subjects of *Shunto* debate have widened to include not only raises in pay, but also work-style and ways of evaluation; the environment surrounding the automotive industry has also been growing harsher. Therefore the union appears to have decided that it is more important to deepen discussions than to take a clear confrontational stance.

The Toyota union is also planning to consider not holding rallies any more from next year on as well.