



Labor Update No.82 March 6, 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) "In Regard to Nationwide Temporary Closures of Elementary Schools, Middle Schools, High Schools and Special-Needs Schools in Order to Prevent Infection with Novel Coronavirus (notice)" (Gen-Monka-Hatsu #1585, Feb. 28, Reiwa 2 [2020])

[https://www.mext.go.jp/content/202002228-mxt\\_kouhou01-000004520\\_1.pdf](https://www.mext.go.jp/content/202002228-mxt_kouhou01-000004520_1.pdf)

(2) Prime Minister Abe admits explanation inadequate, clarifies request for school closures, indicates aid for time off work

Prime Minister Abe Shinzo held a press conference at his official residence on the 29th to ask for understanding over his request for temporary school closures to prevent the spread of the novel coronavirus. While admitting that this "will place a great burden" on some people, he stated that "we must not allow a mass infection situation to occur". He also mentioned the setting up of a new subsidy system to assist parents and guardians whose income decreases due to taking time off work to take care of their children.

On the 27<sup>th</sup>, the Prime Minister announced that he was requesting all elementary, middle and high schools as well as special-needs schools nationwide be temporarily closed. Since the announcement was made with with no explanation of what would be done for parents who became unable to go to work, confusion had spread among parents and at schools.

The prime Minister admitted that "it is certainly true [that] my explanation was inadequate". On the other hand, he justified this saying "we did not have the luxury of taking time to make our decision". As a support policy for parents, he said "we will set up a new subsidy system" to deal with decreases in income caused by taking time off work, and emphasized that "a full allowance will be given, regardless of whether their employment is regular or non-regular". Regarding childcare facilities, he stated that support would be given to the efforts taken by local governments.

(3) Novel virus "employment adjustment subsidy" eligibility expanded: affected businesses

In order to sustain employment at companies whose business has been negatively impacted by the affects of the novel coronavirus, the Ministry of Health, Welfare and Labor (MHWL) has expanded the eligibility for “employment adjustment subsidies”.

Companies will be eligible, regardless of whether or not they do business with China, if their sales over one month decline by 10% or more compared to the same period of the previous year due to the influence of the virus.

(4) “Support for Parents and Guardians Taking Leave Due to Closures of Elementary Schools, Etc. (Setting Up of New Subsidy System)” MHWL release, March 2, 2020  
<https://www.mhlw.go.jp/content/12600000/000601848.pdf>

(5) Kosei Nenkin eligibility criteria for part-timers extended: reform bill decided on in Cabinet

The government has decided on a bill to reform the pension system, centering on an expansion of eligibility to enrol in *Kosei Nenkin*, the pension for company employees. The obligation for employers to enrol non-regular employees, such as part-timers, will be extended in two stages to eventually include small and mid-size companies with 51 or more employees. As well as raising the amount of pension that part-timers may receive in the future, the goal of this is to increase the number of people paying into the system. The related bill also includes encouragement for elderly people to continue working. The plan is to pass it at the current Diet session.

For part-timers and others working short hours, the current enrolment criteria are to be working over 20 hours a week at a company with 501 or more employees. The company-size criterion will be lowered to 101 or more employees in October of Reiwa 4 (2022), then to 51 or more in October of Reiwa 6 (2024). The government estimates that, when the enrolment obligation extends to companies of 51 or more employees, 650,000 people will be newly enrolled.

Since pension premiums are split fifty-fifty between employer and employee, companies’ pension expenses will increase. The government was at one point considering eliminating the company-size criterion altogether, but put this off due to opposition from small and mid-size businesses.

“Bill to Amend Parts of the National Pension law, Etc., in order to Strengthen the Functioning of the Pension System: Comparative table of Prior and Amended Articles” linked below (in Japanese):  
<https://www.mhlw.go.jp/content/000601829.pdf>

(6) With parents off work, Suga says support to be given to freelancers and self-employed too

On the issue of the novel coronavirus disease, with regard to new subsidies to help deal with loss of income for parents and guardians who take time off work to care for

children while schools are closed, Chief Cabinet Secretary Suga Yoshihide has indicated a wish to adopt measures for freelancers and the self-employed as well. He stated that “Steps will be taken to secure 5 hundred billion yen to set up business consultations and give emergency loans and guarantees”.

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

### **(1) Cause of cook’s death was “harsh labor”: restaurant ordered to pay compensation**

The death of a man who had worked as a cook in a French restaurant listed in the *Michelin Guide* was caused by overly long working hours, according to his wife and two other family members, who filed suit seeking 98 million yen in compensation from the owner-chef and the company that managed the restaurant at the time. A verdict has now been handed down by the Osaka District Court, ordering the restaurant to pay a total of 84 million yen.

The man worked at the restaurant starting in June of 2009. Beginning in November of 2011, he often worked from 8:00 A.M. until 2:00 A.M. of the following day, with his overtime work adding up to as much as 250 hours per month.

### **(2) “Dismissal of nurse was inappropriate and lacked basis”: Yamaguchi District Court**

The Yamaguchi District Court has handed down a verdict in the unfair dismissal case of a female nurse who worked at a prefectural medical center. The nurse claims she was dismissed from her job unfairly just before becoming eligible for the “5-year rule”, by which, having worked on a limited-term contract for over five years, she would have become eligible for unlimited-term employment. She filed suit against the Prefectural Hospital Organization, which runs the medical center, seeking confirmation of her employee status. The court ruled that “the dismissal lacks an objectively reasonable basis” and confirmed the woman’s status as an employee.

The woman has worked at the hospital since September of 2005. Based on an interview carried out by the Organization in July of 2017, she was given a personnel evaluation saying that she “fell below the standard required”, and was dismissed at the end of March 2018, just before she would have acquired the right to switch to unlimited-term. The court’s ruling pointed out, in regard to this interview, that “there was no setting of reasonable evaluation criteria, nor any structure to assure the fairness of evaluations; the decision process was lacking in rationality.” The dismissal was held to be in violation of the Labor Contract Act.

### **(3) Wakayama high school teacher’s suicide confirmed as due to overwork: “at-home overtime and club activities the cause”**

The 2009 suicide of a man who taught at a Wakayama prefectural high school was caused by depression he suffered as a result of long working hours due to club activities and to having to take work home, according to the review board of the Wakayama branch of the Fund for Local Government Employee Injury Compensation.

The review board approved line-of-duty accident compensation (the equivalent of workers' compensation for private-sector employees) in September of last year. This was a rare reversal decision by the board, overturning the judgement of the Fund's branch head, who had ruled the incident "not in the line of duty" and denied its connection to the man's work.

(4) Over 20 million yen in unpaid wages at JA Tsukuba

It has become known that JA Tsukuba received guidance from the Tsuchiura Labor Standards Inspection office based on their not having properly paid staff for their overtime. Some former staff members have testified that bosses requested they report working shorter hours than they had actually worked.

The Tsuchiura LSIO pointed out that "illegal overtime work was recognized at multiple work locations".

(5) Citation issued to Sakai City extra-governmental organization: work over New Year, no breaks

Nurses working at hospitals run by an extra-governmental organization affiliated with the city of Sakai were not given the prescribed amount of break time, according to a citation issued by the Sakai Labor Standards Inspection Office.

The organization, which operates three facilities including the Sakai Children's Emergency Medical Center (Nishi-ku, Sakai) is said to have not allowed sufficient break time to multiple female nurses working at their hospitals, despite the nurses' working longer than the 6-hour shift for which a break is required by the Labor Standards Act.

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

(1) Economy recovering even with drop in GDP--Cabinet Office: "It cannot be said to be the fault of the tax increase"

The government has expressed a view in its monthly economic report that "although exports are weak, and manufacturing in particular seems to be staying in a more bearish state, the economy is slowly recovering". From October to December of last year, the gross domestic product (GDP) showed a large amount of negative growth, and the government's economic judgment drew attention. However, they have kept to the "slow recovery" interpretation, just as they have since January of 2018, giving another optimistic judgment just as they did last month.

"Monthly Economic Report, February, Reiwa 2 [2020]" (Feb. 20, 2020; Cabinet Office) linked below (in Japanese):

<https://www5.cao.go.jp/keizai3/getsurei/2020/0220getsurei/main.pdf>

"Preliminary Figures for Quarterly GDP for October-December 2019 (First Preliminary Report)" (Feb. 17, 2020; Cabinet Office) linked below (in Japanese):

[https://www.esri.cao.go.jp/jp/sna/data/data\\_list/sokuhou/files/2019/qe194/pdf/gaiyo](https://www.esri.cao.go.jp/jp/sna/data/data_list/sokuhou/files/2019/qe194/pdf/gaiyo)

(2) Tokushima City to recognize sexual diversity, introduce partnership certificate system in April

The city of Tokushima will introduce a “Partnership oath System” in April to grant public recognition as partners to sexual-minority (LGBT) couples. This will be the second such system in Shikoku, after that in Mitoyo City, Kagawa.

To qualify for the system, both partners must be 20 years of age or older and live in, or plan on moving to, the city; and one or both must be of a sexual minority. When they submit the required documents, such as a copy of their residence certificates (*juminhyo*), along with the written oath, they will be issued with an oath certificate.

It will not be legally binding; but there are examples across the country of such certificates being accepted as qualification for mobile phone family discounts or to become the beneficiary of a partner’s life insurance. The City is considering amending its public housing system to let these couples live as families in City housing.

(3) Off work due to school closings: sharp increase in consultations from part-time teachers

With most schools temporarily closed to prevent the spread of the novel coronavirus, labor unions are hearing more and more consultations from part-time teachers who are forced to stay home from work.

A union in Setagaya-ku, Tokyo, received 54 consultations one after another from people working in schools within a few days after the unprecedented request to close was announced. This means a full quarter of the consultations heard by that union over the past year were concentrated within a mere five days.

The Ministry of Education, Culture, Sports, Science and Technology (MEXT) says that even when there are no lessons, there may be work to be done such as lesson preparation or providing support for students studying at home, and is asking each Board of Education “to deal with this properly”.

However, part-time and non-regular workers in education (not only part-time teachers, but also the cooking staff who make school lunches, the drivers of school buses, etc.) are saying they are uneasy because “there was no explanation about pay for the time that school is closed, I’m afraid I might not be paid”, for example, or “Allowance for Absence is required by law, but I was told they can only pay 60% of my wage, and I can’t live on that”.

(4) Freelancers will not qualify for subsidies: contradiction with “promoting diverse work styles”

Freelancers (independent business owners), who are not employed by a company, are

raising angry voices about the coronavirus prevention measures announced by the Abe administration. The administration announced a policy to support parents and guardians who took time off work to care for children due to school closings. But they did not make freelance workers eligible for this. This administration has pushed for “diverse work styles” and taken the position of protecting freelancers; with these new measures going in contradiction to this, even some within the ruling party have called for reconsideration.