



Labor Update No. 84 April 3, 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) Special provisions in personal loan system: freelancers, etc. to get up to ¥200,000--MHWL

With the effects of the spread of coronavirus infection making it especially hard for freelancers, among others, to make a living, the Ministry of Health, Welfare and Labor (MHWL) has decided to establish a special provision in the system of loans granted to individuals, enabling a person to borrow as much as ¥200,000 for living expenses.

Applications for these loans will be taken at local Social Welfare Councils; processing normally takes about 9 days from initial consultation to getting the loan, but this will be shortened to two days.

Emergency Response Measures Relating to COVID-19: Stage 2 (points)

[https://www.kantei.go.jp/ip/singi/novel\\_coronavirus/th\\_siryou/kinkyutaiou2\\_gaiyou\\_corona.pdf](https://www.kantei.go.jp/ip/singi/novel_coronavirus/th_siryou/kinkyutaiou2_gaiyou_corona.pdf)

### (2) In Regard to the Re-opening of Education Activities at Elementary Schools, Junior and Senior High Schools, and Special Needs Schools, Etc., in the Reiwa 2 [2020] School Year (notice)

[https://www.mext.go.jp/content/20200324-mxt\\_kouhou01-000004520\\_1.pdf](https://www.mext.go.jp/content/20200324-mxt_kouhou01-000004520_1.pdf)

### (3) “Secure 100% of real take-home income” for four weeks after birth: LDP team to promote fathers’ childcare leave

An interim proposal by an LDP project team has been announced relating to childcare leave for fathers. In order to make it easier for men to take childcare leave, the proposal asks the government to consider methods of making sure their take-home income would not decrease during the four weeks following their child’s birth. The team will soon be finalizing their proposal, and will attempt to have the government include it in their outline plan for measures to deal with the declining birthrate, which are to be decided on as early as this spring.

### (4) Employment subsidies of up to 90%: attempt to avoid unemployment

As part of additional economic measures to deal with the spread of COVID-19, the government and ruling party have settled on a plan to expand employment adjustment subsidies in order to prevent companies with business trouble from laying off employees. In addition to raising the subsidy rate to four-fifths of leave payments for small and mid-size businesses, and to two-thirds for large companies, the plan would raise them to a maximum of 90% for businesses that did not dismiss any employees at all.

Employment adjustment subsidies are provided to companies that pay their employees a leave allowance to stay home from work. The normal subsidy rate is two-thirds for small companies and half for large corporations. As well as raising the subsidy rate, the new plan will relax the conditions for subsidies, such as by making them available even to companies whose sales have not suffered, in order to encourage the use of the system. Furthermore, the subsidies normally apply only to regular employees and others enrolled in employment insurance, but now will be expanded to include part-timers and others not enrolled. Apart from the special 90% provision, these measures--the increased subsidy rate and relaxed conditions--have already been put in place in Hokkaido, where a state of emergency was declared.

#### (5) Duty of effort for companies: law on securing work opportunity until age 70 passes

A law to amend the Elderly Persons Employment Stability Act and related laws, which makes it a duty of effort for companies to ensure the chance for people to work until age 70, has passed. It will be put into effect starting in April of next year, and the government is looking at making it compulsory in the future. The aim is both to increase the number of healthy elderly people working, in order to alleviate labor shortages, and to increase the number of people supporting the pension system.

The related law amendments include an amendment to the Workers' Accident Compensation Insurance Act, revising the structure for granting compensation to those who work side jobs or second jobs, and one to the Employment Insurance Act, to shrink the Older Age Employment Continuance Payment paid until age 65 to those whose wage decreased significantly on being re-employed after retirement age.

#### (6) Regarding Revisions to "II. Guidelines on Implementation of Temporary School Closings in Response to Novel Coronavirus Disease" (notice)

[https://www.mext.go.jp/content/20200401-mxt\\_kouhou02-000004520\\_03.pdf](https://www.mext.go.jp/content/20200401-mxt_kouhou02-000004520_03.pdf)

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

### (1) Overwork recognition at Art Corp. subsidiary

The sudden death of a man who worked as a truck driver for a main subsidiary of moving company Art Corporation, and who died during the May holidays last year, has been acknowledged as due to overwork by the Togane Labor Standards Inspection Office (Togane, Chiba), which has granted industrial accident compensation, it has become known. The subsidiary company is "taking this seriously, and will do our best to prevent such a thing from happening again", according to management.

The Togane LSIO, having investigated the man's real situation at work, estimated that in the six months before his death he worked at least a monthly average of between 65 and 110 hours' overtime. "He was overworked", they explained to the deceased man's family.

(2) Down to the wire, an accident could happen any time: extraordinary strike by nursery teachers

Nursery teachers at a licensed nursery school run by a private company in Mitaka, Tokyo, have carried out a strike demanding improvements in the working environment. According to the city of Mitaka, the strike was for one day only, and the company put together a special shift to continue operation. It is highly unusual to see a strike at a licensed nursery school.

Since February, over ten of the nursery school's teachers have joined Kaigo Hoiku Union, a union of nursery care and other workers. They have been demanding the company hire more staff, saying "we don't have enough people for safe and secure nursery care". According to the union, the company accepted collective bargaining in the middle of the month, but did not give enough of an answer.

The union points out that "being understaffed means an accident could happen at any time". One of the teachers has said that "by working in a down-to-the-wire situation, we could become ill. It's not good either for nursery teachers or for the children". The teachers on this day once sent a written demand to the company for increased staffing.

(3) Taxi drivers' "de facto zero overtime pay" illegal: Supreme Court says "a deviation from the nature of extra pay"

In the lawsuit over the system formerly used at major taxi company Kokusai Jidosha, whereby an amount corresponding to overtime pay was deducted from percentage pay, the Supreme Court (First Petty Bench) has ruled that the system violates the spirit of Labor Standards Act, Article 37 (which governs the payment of overtime), and is therefore illegal.

At Kokusai Jidosha, drivers were paid a percentage of their sales in addition to base pay and overtime. However, when the percentage payment was calculated, an amount corresponding to the overtime pay was deducted, leaving them with *de facto* zero overtime pay.

(4) Suicide due to "suicide selling" in case of Saitama post office worker: LSIO decision overturned

The December 2010 suicide of a man who worked at a post office in Saitama was caused by depression that was brought on by work stress, according to a workers' compensation insurance examiner at the Saitama Labor Bureau who has granted industrial accident compensation. In the background were sales quotas that forced the

man to buy New Year's cards, etc. from himself in so-called "suicide sales" or *jibaku eigyo*.

[Translator's note: *jibaku* literally translates as "self-explosion" as in a suicide bombing. *Jibaku eigyo* or "self-explosion sales" is the term used for having to buy one's own merchandise at one's own expense to make a sales quota.]

The man worked at a post office in Saitama Prefecture starting in 1982; in 2006 he was transferred to Saitama Shintoshin Post Office. There he had a sales quota requiring him to sell several thousand New Year's postcards; in order to fulfill this, he was forced to "self-sell". Whenever he made a mistake at work, he was also made to stand up on a platform in front of several hundred other employees to apologize and be made an example of.

The Labor Bureau examiner granted recognition that the depression leading to the man's suicide was caused by heavy mental stress stemming from the sales quotas. Compensation was granted, overturning the previous decision by the Saitama Labor Standards Inspection Office not to pay it.

#### (5) Re-employed after retirement, paid ¥8 million less per year for same job: illegal, say IBM employees in lawsuit

Two men in their 60s who were re-employed after retirement age at IBM Japan have sued the company in the Tokyo District Courts, claiming that, although they do the same work that they did before retirement, their base monthly pay has been cut by ¥170,000 and they also no longer receive any bonus. This, they say, is a violation of Article 20 of the Labor Contract Act, which forbids setting unreasonable disparities in treatment between regular and non-regular employees. The men are seeking a total of ¥22.22 million, including the difference in pay.

For the ten years before retirement, the two men earned approximately ¥10 million per year.

#### (6) Red Cross Kumamoto Hospital sued for dismissal: Kumamoto Pref.

The woman who has sued, who lives in Kumamoto City, began work in 2015 as a medical assistant on a one-year contract. After that, her contract was renewed four times, once a year.

During that time, she was promoted from "temporary employee" (*rinji shokuin*), paid per day, to "contract employee" (*shokutaku shokuin*), on monthly pay with overtime. She was also notified in writing that "once you work more than five full years, you can switch to an unlimited-term contract".

However, she was recently notified suddenly that her contract would not be renewed for the next year. Her lawyers say this may be an illegal dismissal for the purpose of evading unlimited-term employment.

The woman is seeking confirmation of her worker status and back-payment of wages.

#### (7) Subsidies associated with school closings: MHWL directs companies to be encouraged to use

Regarding the government subsidy system to compensate parents for lost wages when they take time off work due to schools being closed, since there have been several complaints that “[my employer] won’t let me use it”, the Ministry of Health, Welfare and Labor (MHWL) has directed Labor Bureaus nationwide to keep track of the situation and urge companies to make use of the system.

#### #Saizeriya “Responds with own system rather than using the government subsidy”

A woman in her 30s who works at a branch of major restaurant chain Saizeriya in Chiba Prefecture says that last month, when she asked the branch manager whether she could use the national system, she was told that the company would deal with the situation using its own system, rather than the government one.

The document she was shown at that time said that, as compensation for absence when one’s child’s school was closed, the company would pay a flat amount of ¥2,000 per day.

This meant the company’s original system would be paying her less than half of what she would have earned per day if she was working. She says “what the manager told me was that, if they use the national system, more people would take time off, and there wouldn’t be enough staff for the shifts, so we can’t use that. I spend my part-time wage on food and on my child’s lessons, so life would be very tough. The company has a lot of people in the same situation as me, so I hope we will be able to use the national system.”

#### (8) Adult entertainment workers excluded from school-closing support benefits: voices call for withdrawal

The national government will pay support benefits to parents who do freelance work and have to take time off due to their children’s schools being closed. However, women who work in the adult entertainment industry have been excluded from this. The MHWL explains that “they are not eligible for employment subsidies, and the same is true for this measure”. But there are many single mothers working in the industry, increasing worries that some may be facing poverty.

The MHWL cites as a reason that adult entertainment businesses are not eligible for employment subsidies.

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

#### (1) Japan Post Group considers laying off 10,000 post office staff: profits down after Kampo scandal, etc.

Japan Post Group is considering cutting 10,000 staff, or five percent of all post office workers nationwide. The group’s profits are in a slump, so they plan to decrease personnel costs by cutting staff. As of March of last year, there were 192,889 employees (not including part-timers, etc.) working at Japan Post, or about 90% of the

group's total employees.

(2) Partner system: three cities in Kanagawa (including Yokosuka) to become reciprocal

The three cities of Yokosuka, Kamakura and Zushi, all in Kanagawa, will be the first in the prefecture to make their “partnership oath systems” reciprocal. The systems give official recognition as partners to sexual-minority couples (LGBT etc.). This appears to be the first case in the country where neighboring municipalities made the system reciprocal: the same certificate will be valid in all three cities. If medical institutions cooperate, this could mean an improvement at hospitals in cases where only family members are allowed to visit. The three cities say they are “aiming to be an area where everyone can live at ease.”

(3) Labor Lawyers Association of Japan releases Q&A on labor Issues Related to COVID-19 (Ver.1)

<http://roudou-bengodan.org/wpRB/wp-content/uploads/2020/03/ffcb7d78715148a4e9c751f2b813230a.pdf>