



Labor Update No. 95 September 4, 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 rule extended for employment adjustment subsidy: MHWL

In regard to the special exception measures for employment adjustment subsidies, the emergency employment stability subsidy, and the support fund and allowance for leave taken due to COVID-19 (henceforth “special exception for employment adjustment subsidy etc.”), which are set to expire at the end of September, these will now be extended to the end of December of this year.

In addition, while finding ways to make prevention precautions and socioeconomic activity compatible together, as long as the employment situation does not worsen greatly (such as by sudden increases in the numbers of those on leave or unemployed), the special exception for employment adjustment subsidy, etc., will then be reduced in stages.

(2) Unemployment insurance “payment limit period” to be shortened to 2 months starting October 1, 2020

https://www.rosei.jp/lawdb/common/data/pamphlet/file/000109084_file1.pdf

(3) Changes to payment amount of workers’ compensation insurance for workers with more than one job--starts September 1, 2020

https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou_roudou/roudoukijun/rousai/rousaihukugyou.html

“Workers’ Accident Compensation Insurance payments for workers at multiple workplaces: a simple explanation”

https://www.rosei.jp/lawdb/common/data/pamphlet/file/000109203_file1.pdf

(4) Rules to be made clear to prevent overwork from second and side jobs

In relation to the question of work hours management for those who work a second job, a subcommittee of the Labor Policy Council (an advisory body to the Minister of Health, Welfare and Labor) has reached the conclusion that the regulated maximum of overtime hours, intended to prevent overwork, should be applied to the sum of hours

worked at the main job and second job. The Ministry will revise its policy on side and second jobs in September to make this rule clear.

Under the new policy, a company will be required to add in the hours worked at a second job when keeping track of an employee's hours. The time worked at this second job will be reported by the worker him/herself to the first employer. Then, of that total number of work hours, the amount of time in excess of the legally specified working hours will need to be kept within the maximum limit.

"Guidelines for Promotion of Second and Side Jobs", MHWL
<https://www.mhlw.go.jp/content/11201250/000665413.pdf>

2. Legal Violations/Disputes

(1) Kansai Nama-Kon Union incident: "abuse of arrest power", "unjust government interference"--a total of 89 arrested, long-term detention of over 600 days; seeking damages from national government, union officers give their statements

A sequence of events over the past two years saw the chair and other officers of the All-Japan Construction and Transport Workers' Solidarity Union, Kansai Regional Ready-Mix Concrete Branch (Kansai Nama-Kon, Kan-Nama) arrested by Kyoto and Shiga prefectural police and prosecuted on extortion charges. The union and its officers have since filed suit against the prefectures of Kyoto and Shiga along with other government bodies seeking compensation. The first oral arguments have now been heard in Tokyo District Court.

The Kan-Nama Branch is a qualified union under the Trade Unions Law. Yet, despite being qualified to carry out union activity such as strikes, it has been subjected to unjustified investigations and probes into these activities, including long-term detentions of up to more than 600 days.

The union's lawyers emphasized the meaning of this state compensation suit, saying "the judges who allowed them to keep being re-arrested and to be detained for 300 to 600 days bear responsibility for failing to understand industrial unions or the Trade Unions Law, as well as for infringing on human rights".

Take Ken'ichi, the union chair, explains the how the Kan-Nama Branch built a cooperative relationship with small and middle-sized ready-mix concrete businesses to improve the quality of concrete and try to stop the "race to the bottom" of competing to sell low-quality product cheaply, in return realizing a unified pay scale and benefits for workers across the industry. He tells how these efforts brought a backlash from construction companies, and makes his point that "Union activity, based on labor agreements, was made into a crime. This kind of incident could hollow out the Constitution".

Take also criticizes the bail conditions that were imposed on him and the other plaintiffs as criminal defendants--he was forbidden to enter the union's office or have

any contact with people connected with the union--saying "I can't do my job. It's an unjustified measure aimed at stagnating the union's activity. The judges who allowed this are siding with the repression".

The set of events started with a construction site in Shiga, when Kan-Nama demanded that a construction company get their ready-mix concrete from a supplier that had a labor agreement with the union. Shiga Prefectural Police arrested Take, the chair, charging that these demands were attempted extortion. Since then, a total of 89 arrests have been made there and in Kyoto, Osaka and Wakayama.

In response to this, 78 experts on Japanese labor law released a statement of protest last December, saying that "this enforcement ignores the basic labor rights, a cornerstone of human rights. It cannot be disregarded".

(2) For drivers laid off due to COVID-19, Sendai District Court issues injunction voiding dismissals

A taxi company that dismissed four drivers because of poor business performance due to the effects of COVID-19 has been issued an injunction by Sendai District Court ordering the dismissals voided. The Court said in its decision that "the company made inadequate effort to avoid cutting personnel, such as by using employment adjustment subsidies". As well as deciding the four drivers' dismissals were void, the court also ordered that three of them be paid part of their wages for one year starting in September.

(3) "Rotten orange" resignation pressure "illegal": Otemon Gakuin sued

Three men employed by Otemon Gakuin school corporation have filed suit at Osaka District Court against the school's *riji-cho* (chief director) and a consultant company that conducted staff training. The men claim that they were illegally pressured to resign by persistent personal attacks, such as being called "rotten oranges", during the training. They are seeking a total of ¥22 million in compensation for damages.

In 2016, Otemon Gakuin gathered 18 staff members for a five-day, 40-hour session of "self-directed career-building training". At this training, an instructor from the consulting company pressured the three men to resign at the end of March 2017, saying to them such things as "there's no chance for you". In post-training interviews, the *riji-cho* also demanded their resignations.

(4) Working hours under-reported at prefectural special-needs school?--BoE to investigate

At a prefectural special-needs school in Gumma, it has come to light that teachers' work hours may have been recorded as being shorter than they actually were. There was even at least one example where, despite a teacher having worked far more than the 45 overtime hours per month that is Gumma's prefectural government standard, the recorded hours were cut down to a mere fraction of the real amount so as to come

in under this line. Under-reporting has been acknowledged in multiple teachers' cases for multiple months. The Gumma Prefectural Board of Education has had this problem brought to their attention, and will soon be starting an investigation.

(5) “Leave payments for part-timers too”: part-time workers strike at Osaka-based chain

Part-time employees of a cafe run by Fujio Food System, the Osaka-based company that also runs other restaurant chains such as Maido Okini Shokudo and Kushiya Monogatari, have held a press conference in Tokyo to announce that they have begun a two-week strike. They are demanding payment of leave allowances (*kyugyo teate*), which went unpaid when branches closed due to the effects of the coronavirus.

Delices Tarte & Cafe, where the part-timers work, was closed from April 8 until the end of May by the State of Emergency order. Leave allowances were paid only for the few days in April for which their shifts had already been set, and were not paid at all for May. From June on, the number of shifts was cut; then, starting in July, some staff were laid off, so those remaining were left with excessive workloads. In collective bargaining, the company answered that the reason for their cafes closing was that the commercial buildings they were located in were closed, and so they were not required to pay any *kyugyo teate*. On the other hand, they made clear that they had indeed paid this allowance to their regular full-time staff (*seishain*).

3. Situation/Statistics

(1) 64% of teachers at public junior-high schools at or over *karoshi* line: workloads increase because of COVID-19

The non-profit organization “Kyoiku Kaikaku 2020/Kyoiku no Mori” has released a survey of teachers' real working conditions. The results show that 56.4% of teachers at public elementary schools, and 64.3% of those at public junior-high schools, actually worked more than 80 overtime hours a month--considered the *karoshi* line--either by staying at school late or by bringing work home.

[Translator's note: *karoshi* is “death from overwork”. The *karoshi* line is the unofficial standard for recognizing this as a cause of death for the purposes of workers' compensation insurance].

“Survey of Changes in Teachers' Real Work Situation, Etc., On Account of COVID-19”
<http://bit.ly/corona-teachers>

(2) New company system for sexual-minority employees at Asahi Beer -- environment improving to respect diversity

Asahi Beer has announced that they will be instituting new systems in their company for employees of sexual minorities (LGBT etc.). These include recognizing same-sex partners as spouses and applying the same benefits as for an opposite-sex marriage; as

well as, in case an employee's gender identity is different from the sex listed on their family register, treating the employee according to their self-identified gender. Asahi says that, by improving their work environment in ways that respect their employees' diversity, they aim to build a workplace with job satisfaction for all.

A "same-sex partnership registration form" will enable employees to live together in company housing, as well as to take family-care leave and other leave of absence. A "change of gender treatment form" will make it easy to consult about use of toilet facilities, changing rooms, etc., so as to enable employees to work as their self-identified gender.

(3) Three-tenths of children worldwide unable to access online lessons

With online classes being introduced in many places due to the effects of the coronavirus, the United Nations Children's Fund (UNICEF) has released a report saying that three in ten children around the world are in an environment where they cannot access online lessons.

"COVID-19: At least a third of the world's schoolchildren unable to access remote learning during school closures, new report says" UNICEF

<https://www.unicef.org/press-releases/covid-19-least-third-worlds-schoolchildren-unable-access-remote-learning-during>

(4) Number of dispatch workers decreases by 160,000: June-end "COVID layoffs"?

Amid the coronavirus pandemic, the MHWL Labor Force Survey shows that the number of dispatched workers as of July showed a decrease of as many as 160,000 compared to the same month of the previous year. This is the largest drop since 2014, when comparable data becomes available. There was worry about a "June crisis", when layoffs might spike at the end of June with the renewal period for three-month dispatch contracts; it seems this has become reality.

The MHWL was also alert to the danger of a "June crisis". In May, Health, Welfare and Labor Minister Kato Katsunobu asked dispatch business groups and economic organizations to maintain employment and not let go of dispatch workers too easily. He even asked for the unprecedented measure from dispatch companies of maintaining employment even if a new dispatch assignment could not be found, and using employment adjustment subsidies to pay workers for the time off.

However, this request had no binding force; the Ministry "has not kept track" even of whether there actually have been any cases where dispatch companies used employment adjustment subsidies to maintain employment when there was no dispatch destination. Laid-off dispatch workers and their supporters stated at the end of July that "the request is not being followed, and layoffs are spreading". They asked the Ministry to take further steps.

"Labor Force Survey (Basic Statistics), July 2020" Sep. 1, 2020, Interior Ministry

Statistics Bureau

<https://www.stat.go.jp/data/roudou/sokuhou/tsuki/pdf/gaiyou.pdf>