



Labor Update No. 97 October 2, 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) “Payment limitation period” after voluntary resignation to be shortened from three months to two, starting on October 1, 2020

<https://www.mhlw.go.jp/content/11600000/000655465.pdf>

(2) Discussion begins in earnest in MHWL on introducing “childbirth leave for men” system to be proposed within the year

The Ministry of Health, Welfare and Labor (MHWL) has begun deliberating a new system designed so that fathers can take “childbirth leave” just as mothers do immediately after a child is born. Since the number of fathers who take childcare leave has barely increased, the aim now is to build a framework to encourage this both socially and economically. A system proposal will be put together by the end of this year, with the intention of submitting relevant legislation to the regular session of the Diet next year.

“30th Mtg., Labor Policy Council Employment Environment and Equality Subcommittee”
“Regarding the Encouragement of Men to Take Childcare Leave, Etc.”

<https://www.mhlw.go.jp/content/11901000/000676815.pdf>

“Items for Consideration in Regard to the Encouragement of Men to Take Childcare Leave, Etc. (Proposal)”

<https://www.mhlw.go.jp/content/11901000/000676816.pdf>

(3) “COVID-19 Related Employment Adjustment Subsidy Special Measures to be Extended”

<https://www.mhlw.go.jp/content/11600000/000677657.pdf>

2. Legal Violations/Disputes

(1) Illegal overtime work at half of workplaces, MHWL inspection finds

Of 32,981 workplaces around the country where the MHWL conducted on-site inspections last fiscal year, nearly half were found to have cases of illegal overtime

work (such as employees being kept at work longer than the maximum hours permitted by a labor agreement).

The number of workplaces that were found to have no labor agreement permitting overtime, to make people work longer hours than the limit set by such an agreement, or to have other illegalities in overtime work was 15,593. This was 47.3% of the total.

Of these, the number where cases were found of overtime exceeding 80 hours in a month--considered the "karoshi line"--was 5,785 or 37.1% of the total; and 730, or 4.7%, had cases of overtime in excess of 150 hours.

In order to rectify the problem of overly long working hours, the Work-Style Reform law was passed. Starting in April of last year, this law imposed an upper limit on overtime hours at large companies; this rule applied to small and medium-size companies as well starting in April of this year.

"Announcement of Results of Reiwa 1 [2019] Guidance and Supervision for Workplaces at which Long Work Hours are Suspected"--MHWL

<https://www.mhlw.go.jp/content/11202000/000667303.pdf>

(2) "Put me back to work as soon as possible", says former teacher at Teikyo Nagaoka H.S.--Niigata District Court rules dismissal invalid

Niigata District Court, Nagaoka Branch, has made a ruling in the case of Mr. Yoshida Dai, a former teacher at Teikyo Nagaoka High School. Mr. Yoshida had requested an injunction to seek confirmation of his teacher status and provisional back-payment of salary. He claimed that educational corporation Teikyo Aoshi Gakuen, which runs the school, had dismissed him because of his being a union member. The court ruled that the dismissal was not valid. Mr. Yoshida states, "I hope the school takes this ruling seriously, and returns me to work as speedily as possible".

In the ruling, the court judged that the firing, ostensibly on grounds that Mr. Yoshida had said inappropriate things to students and was therefore "lacking the necessary competence to do the job", was "an abuse of dismissal authority", citing among other points the limited number of student complaints.

(3) Club activity advisors have "set-price unlimited plan" workload--office worker at private high school sues school for overtime pay

A woman in her 50s who is a member of office staff at a private high school in Nagasaki, and who also coaches the track and field club, has filed a suit against the school at Nagasaki District Court. She claims that, in order to strengthen the club activity, she was given no choice but to board team members at her home, and thereby forced to work over-long hours. She is suing the school corporation for back-payment of the unpaid overtime, a total of approximately ¥15.8 million. It is unprecedented for a current club activity leader to sue an employer for reasons of overwork. The woman says "it is wrong for the strength of club activities to be built on the assumption of self-sacrifice by the activity leaders".

In order to strengthen the sports clubs, the school assigned each club advisor a number of scholarship students to recruit. The woman was expected to recruit 3 to 4 students. But since the girls' track and field club had previously been suspended for a long time, it was difficult to recruit these students from nearby. Therefore she had to recruit from far away, such as from remote islands. Since the school did not have a boarding house, she put the students up at her home, and gained the school's approval for this. Up to three students at a time lived in her home.

To ensure the team members' best performance, care of their health is essential. So the woman made breakfast and boxed lunches for them every morning, starting at 5 A.M. During the day, she worked in the school office as a career counselor. Then after school, she led practice until 6 or 7 in the evening. Afterward, she picked up and dropped off students, then made their evening meals. Practices and matches were held on weekends and holidays too. The woman says she "worked over 100 hours overtime every month". But the "overtime allowance" she was paid was never more than ¥14,000.

The woman asked the school repeatedly to set up a boarding house, but says she was told "we have to do this with a certain amount of self-sacrifice". Saying "I want to question the school's attitude of forcing excessive workloads on us", she decided to sue for the past two years' worth of overtime pay (all she has the legal right to claim), ¥9.05 million, as well as additional payment (penalty) of ¥6.74 million for violating the Labor Standards Law.

(4) Veteran actor files for workers' compensation: breaks leg during filming, "in reality a worker"

It has become known that acting veteran Onda Emiko (83), who was severely injured, breaking a leg, on set while filming a TV drama in 2017, has filed an industrial accident request seeking compensation for absence from work. Ms. Onda has been active for a long time, taking work on contract from the production company to which she belongs. The Labor Standards Inspection Office rejected her request twice, on grounds that she is considered an independent contractor. But Ms. Onda emphasizes that "my real situation is that of a worker", and has filed a request for review by the Labor Insurance Appeal Committee.

The majority of actors and others involved in show business are not in an employment relationship with their production companies, and so are not covered by workers' compensation insurance. But the demand to be included is strong, and the MHWL is considering expanding the system to cover them.

3. Situation/Statistics

(1) A new record, 28.7% of population 65 and over; number working increases for 16th year in a row, says Interior Ministry on Respect for the Elderly Day

The Interior Ministry has announced population estimates of elderly people 65 and over, in a release timed to coincide with Respect for the Elderly Day. The total number of elderly as of September 15 was estimated at 36.17 million, an increase of 300,000 over the previous year; while their proportion of the total population also increased by 0.3 percentage points to 28.7%. Meanwhile, the number of working people 65 or over in 2019 was 8.92 million, increasing for the 16th year in a row.

The proportion of elderly people to the general population has increased continuously since 1950. In 2040, when the “second baby boom” generation (those born 1971-1974) are all 65 and over, it is predicted to hit 35.3%.

Compared with the rest of the world, Japan has the highest proportion of people 65 and older. Next is Italy with 23.3%, then Portugal at 22.8% and Finland with 22.6%.

The number of people 65 and up who are working set a new record of 8.92 million, showing an increase of 300,000 over the figure for 2018. As a proportion of the total number of working people 15 and up, this increased by 0.4 percentage points, to 13.3%, also a new record.

Excepting executives and the self-employed, the number was 5.03 million. Of these, 3.89 million, or 77.3%, were in non-regular employment (such as contract employees, part-timers etc.).

“Statistical Topics No. 126: Our Country’s Elderly in Statistics”--Interior Ministry

<https://www.stat.go.jp/data/topics/pdf/topics126.pdf>

(2) World labor income down by 10.7%--COVID-19: working time estimate also worsens

The International Labor Organization (ILO) has released estimates showing that, due to the effects of economic stagnation caused by the COVID-19 pandemic, the worldwide total of labor income in the first three quarters (Jan.-Sep.) of 2020 dropped by 10.7% compared to same period of 2019. The amount lost was estimated at 3.5 trillion US dollars (¥367 trillion).

The ILO predicted in June that the worldwide total of working hours for the second quarter (April to June) of this year would turn out to have decreased by 14% compared to the last quarter of 2019, before the spread of COVID-19. This estimate has now been revised significantly downwards, to 17.3%. In terms of full-time workers working 48 hours per week, this constitutes the equivalent of 495 million jobs lost.

“COVID-19 leads to massive labour income losses worldwide”: ILO

https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_755875/lang--en/index.htm

(3) School uniforms: slacks to be standard for both boys and girls--Sanyo Junior High School, Himeji

Sanyo Junior High School, a municipal school in Himeji, has announced that slacks and blazers will be standard for both boys and girls in the new uniforms to be adopted next

year. From the “genderless” point of view of not being tied to sex, an increasing number of schools are allowing female students choice in uniforms. But it is rare for a school anywhere in Japan to make slacks the basic norm. Even if a system of options is adopted, it is said that many girls do not choose slacks for fear of peer pressure, which seems to underlie the school’s decision.

(4) Average income of private-sector workers declines last year for the first time in seven years

The average yearly income for people working at private companies last year was ¥4.36 million. This was 1% less than the year before. This is the first time since 2012 that the number has been less than the previous year.

According to the Statistical Survey of Actual Status for Salary in the Private Sector, released by the National Tax Administration Agency, the number of people who worked as full-time or part-time staff, etc., at private companies over the past year was about 52.55 million, and the total paid to them was just over ¥229 trillion.

As a result, the average yearly income per person comes to ¥4.36 million. Compared to the year before last, this was a decrease of a little over ¥40,000, or exactly 1%.

By gender, the average for men was ¥5.40 million, seeing an exactly 1% decrease; while that for women decreased by 0.8%, and was ¥2.96 million.

If we compare regular (full-time) employees, except for executives, with non-regular (part-time etc.) employees, we see that regular employees’ income more or less held steady at ¥5.03 million, while those in non-regular employment saw a 2.5% decrease, to ¥1.75 million.

The National Tax Administration Agency explains that the main cause for last year’s decrease in average pay seems to be that, although pay increased at companies with 100 or more employees, it decreased by about 5% at small and mid-size companies of under 100 employees, which account for about four in ten working people.

“Reiwa 1 [2019] Results, Statistical Survey of Actual Status for Salary in the Private Sector”: National Tax Administration Agency

<https://www.nta.go.jp/information/release/kokuzeicho/2020/minkan/pdf/2019chosakokka.pdf>

(5) Starting next year, pay raises all to be by evaluation: Toyota union accepts plan

Toyota Motors Union, with about 70,000 members, has decided to have regular pay raises given to employees every spring be all determined by evaluation, eliminating the portion which was fixed across the board. The union accepted this proposal from the company. Workers who get a good evaluation will have a chance of being paid more; but for those whose evaluation is low, a “zero raise” will also be possible. This system will be introduced in 2021.

The across-the-board part of pay raises will disappear, and the amount of each employee's raise will be completely determined by the company's evaluation of them. Compared to before, the disparity in workers' raises due to differences in evaluation will grow wider. Those who receive the lowest evaluation might even get a pay raise of zero.