



Labor Update No. 99 October 30, 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) Double-income households increase 1.6 times over 30 years of Heisei--report urges employment in order to secure labor force

The 2020 Annual Report on Health, Labor and Welfare has noted that the proportion of households having a double income (both spouses working) increased over the 30 years of the Heisei era to 1.6 times what it was at the start of that period. With the population continuing to decrease due to a declining birthrate and aging population, in order to avoid a shortage of labor, the report indicates a view that it will be even more necessary to increase the rate of employment among women and the elderly.

Of those households where a male is working, the percentage in which both spouses work was 42.3% in 1989. By 2019, this had risen to 66.2%. In 2019, the number of dual-income households was 12.45 million, while that of fulltime homemaker households, in which only the man was working, was 5.82 million.

“Reiwa 2 [2020] Annual Report on Health, Welfare and Labor”

<https://www.mhlw.go.jp/wp/hakusyo/kousei/19/dl/all.pdf>

(2) Starting on January 1, Reiwa 3 [2021], “Sick/injured child care leave” and “elder-care leave” will be able to be taken by the hour

<https://www.mhlw.go.jp/content/11909000/000685055.pdf>

(3) Increase in lump-sum birth benefit considered

Minister of Health, Welfare and Labor Tamura Norihisa has expressed an intent to consider increasing the amount of the Lump-Sum Birth Allowance, which currently in principle is ¥420,000 paid from public health insurance to those who give birth. He aims to put together a proposal by the end of the year as part of health insurance reform.

(4) “Reiwa 2 [2020] Survey of Private-Sector Salaries by Occupation”: NPA

https://www.jinji.go.jp/kankoku/r2/pdf/2-2sankou_minkan.pdf

(5) Employment subsidy special measures to continue next year; third budget over ¥10 trillion: gov't., LDP

In regard to the special measure of raising the upper limit on “employment adjustment subsidies”, by which the national government compensates companies for part of the cost of paying employees an allowance for absence from work, it has become known that the government and ruling Liberal Democratic Party have settled on a plan to extend this past its end-of-December expiry date, and include the necessary funding in the third Reiwa 2 [2020] supplementary budget. The resumed spread of COVID-19 has delayed the recovery of the domestic economy; additional economic measures to be worked into the third budget are likely to total over ¥10 trillion. However, some have also pointed out a necessity to reduce the special measures in stages back to the original limit, and some are considering changing the structure of the system.

(6) Companies' internal reserves at ¥475 trillion, setting new record for the eighth year in a row: end of fiscal 2019

According to the Statistical Survey of Corporate Enterprises released by the Finance Ministry, at the end of fiscal 2019 the total amount of companies' “internal reserves” (money saved up by companies after subtracting taxes and dividends from profit), for all industries except financial institutions, was ¥475.0161 trillion. This represents an increase of 2.6% over the figure for the previous year, and the eighth year in a row of setting new high records.

The rate of increase, however, has shrunk from 2018's figure of 3.7%. This seems to reflect the slowing in the world economy and the drop in profits caused by the spread of COVID-19. Of the industries surveyed, the manufacturing industry actually had its total internal reserves drop by 0.4%, its first decrease in eight years.

“Yearly Statistical Survey of Corporate Enterprises (Reiwa 1)”, Finance Ministry
<https://www.mof.go.jp/pri/reference/ssc/results/r1.pdf>

2. Legal Violations/Disputes

(1) “Theatrical troupe activities are work”: former troupe member sues for pay

Shouldn't troupe members' rehearsals and performances count as work? In a lawsuit filed by a former member of a theatrical troupe, an extraordinary Tokyo Superior Court verdict acknowledging that “rehearsing and performing are work” has become final.

The initial ruling by the Tokyo District Court in September of 2019 recognized backstage duties, such as preparing props, etc., as work, and ordered payment of about ¥510,000--but rehearsal and performance, on the other hand, were not recognized as work entitled to pay, on the grounds that “one is free not to participate”.

The ruling of the Superior Court on appeal in September of this year overturned this, recognizing that rehearsal and performance also “are work, since the operating company sets the time and place, and gives orders and directions”. Therefore the Court

ordered payment of approximately ¥1.85 million. This verdict became final that same month.

(2) Suicide is work-related, surviving family wins case on appeal: work stress was cause

In 2019, a man who worked at NEC committed suicide. After the Mita Labor Standards Inspection Office refused to grant surviving-family compensation, the man's wife sued, claiming the cause of his suicide was depression that was due to excessive work stress. At first, the woman's suit was rejected by the Tokyo District Court, but the Tokyo Superior Court has now overturned this initial ruling, acknowledging the man's suicide as work-related and canceling the decision of the LSIO. The family has won on appeal.

The man worked as a *seishain* (regular, full-time employee) at NEC. For years, he had been in charge of arts and culture support activities, but he developed depression in about January 2009 after having some conflict with a supervisor. In April he was put in charge of IT-related work, a field he had no experience in, and had difficult quotas imposed on him. In May his depression recurred, and in July he took his own life.

(3) Forced resignation "illegal": Utsunomiya District Court orders Tobu Bus Nikko to pay compensation

Utsunomiya District Court has handed down its verdict in the case of a man who worked as a driver for Tobu Bus Nikko, which operates transit buses in Nikko City. The man claimed he had been subject to "power harassment" (or workplace bullying) and forcibly pressured to quit, and sued the company and his supervisors seeking compensation. The court granted part of his claims, ordering payment of ¥660,000.

The ruling points out that there was "strong malice" in the supervisors' saying to the man "we won't let you drive a bus ever again. Write your resignation". About their calling the man "*chinpira* [ruffian, punk, thug]", the verdict recognized that this was "beyond the bounds of work guidance, and caused excessively heavy mental stress".

In July of 2019, when the man was working as a transit bus driver, his supervisors criticized his attitude to customers and unfairly demanded he resign, which led to him developing depression.

(4) Dismissed from job at welfare facility after forming union; dismissal judged invalid

A part-time nurse who worked at a welfare facility in the town of Miyaki, Saga, had her contract non-renewed after joining a union. She filed suit seeking to void the dismissal on grounds of an unfair labor practice. The court has now given a verdict that grants most of her claim.

The woman worked part-time as a nurse on weekends. In response to worsening of the work conditions, she and other staff members formed a union, but then were refused contract renewal. Also, under pressure from the head of the facility, the union members were made to quit the union *en masse*.

3. Situation/Statistics

(1) Labor law violations at more than seven in ten of foreign technical interns' workplaces

After hearing complaints and consultations from interns and others, Labor Standards Inspection Offices conducted on-site investigations last year of all places where foreign technical interns work. It has now become known that breaches of law, such as illegal overtime work and unpaid overtime wages, were found at more than seven-tenths of all these workplaces.

The number of foreign technical interns, who are meant to be learning Japanese engineering and technology while working at companies here, was about 410,000 as of December 2019.

As a result of the LSIO inspections of these interns' workplaces last year--a total of 9,455 places--violations of the Labor Standards Act and other laws were identified at 6,796 places. As a percentage, this makes up 71.9%.

The number of workplaces with violations was the highest since 2003, when statistics began to be kept.

Of these:

- ◇ Work-hours violations, such as making interns work more overtime than the upper limit set by a labor agreement, were identified at 21.5% of workplaces;
- ◇ Violations related to workplace safety management were found at 20.9%;
- ◇ Non-payment of overtime wages was seen at 16.3%; etc.

There were even some cases of total overtime being more than 100 hours in a month, and of overtime work being paid as low as ¥400 per hour, far below the minimum wage.

(2) "Results of Correction of Unpaid Overtime through Guidance and Direction (Heisei 31/Reiwa 1 [2019])"--MHWL Labor Standards Bureau Supervision Office

<https://www.mhlw.go.jp/content/11202000/000686323.pdf>