



Labor Update No. 117 July 9, 2021

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) “Discretionary labor system has large proportion of people working long hours”: MHWL survey result

A survey of working conditions by the Ministry of Health, Welfare and Labor (MHWL) has brought to light that those who work under a discretionary labor system work on average longer hours than those who do not, and that a high proportion of them work very long hours.

Currently eligible for the system are nineteen types of specialist work, including as a copywriter, university lecturer, etc., as well as jobs that involve management planning.

Results of MHWL actual conditions survey:

Average daily working time was nine hours for people who work under a discretionary labor system, while it was eight hours and thirty-nine minutes for those who do not. Workers under the discretionary system work on average about twenty minutes more per day.

The proportion of people who worked more than sixty hours a week was 9.3% for those under a discretionary system, and only 5.4% for others.

In regard to having late night work (between the hours of 10 P.M. and 5 A.M.), 34.3% of those under a discretionary system answered “often” or “sometimes”, while for those not under such a system the number was 17.8%.

“Results of ‘Discretionary Labor System Real Conditions Survey’ Released”, MHWL

<https://www.mhlw.go.jp/content/11402000/000797817.pdf>

“Summary of Discretionary Labor System Real Conditions Survey”, MHWL

<https://www.mhlw.go.jp/content/11402000/000797825.pdf>

(2) Labor-management troubles: consultations over firings and work conditions up by 10% compared to previous year

The number of consultations heard last year (fiscal 2020) by a government system for solving labor-management trouble reached over 270,000. With consultations over such issues as dismissals and lowering of work conditions increasing due to the effects of COVID-19 among other things, the number increased by about 10% compared to the previous year.

By type of consultation, those over workplace bullying and harassment (so-called *pawahara*)--despite decreasing by 9.6% compared to the year before, remained the largest category with 79,190 cases.

“Operating situation of the Individual Labor Dispute Resolution System, Reiwa 2 [2020]”, MHWL

<https://www.mhlw.go.jp/content/11909000/000797476.pdf>

(3) “Maternity Health Care Measures in Connection with COVID-19”, MHWL

<https://www.mhlw.go.jp/content/11900000/000628248.pdf>

(4) Karoshi compensation to be granted even below the “karoshi line” for irregular working times, etc.

The MHWL has updated the standards for recognizing *karoshi* (death from overwork), for the first time in about 20 years. The new rules will allow a death to be recognized as due to work--and compensation granted--even if the number of overtime hours do not reach the so-called “karoshi line”, if they nearly do and if the working times are acknowledged to be irregular.

Specifically, even where the number of overtime hours worked is less than the “karoshi line”, if there is an amount of overtime close to that line and if irregularity is seen in the work times, the rule states compensation should be granted on grounds that “there can be judged to be a strong connection between work and the onset of illness”.

“Report of Specialist Committee on Standards for Industrial Accident Recognition for Brain and Heart Conditions (Proposed)”

<https://www.mhlw.go.jp/content/11201000/000801986.pdf>

(5) Extension of “COVID Exceptions” to the end of August

“Details of Assistance under Employment Adjustment Subsidy and Leave Support Payments”

<https://www.mhlw.go.jp/content/11603000/000803623.pdf>

2. Legal Violations/Disputes

(1) Former branch manager at Marugame Seimen complains to LSIO: “I was working during ‘breaks’”

A man who worked as a branch manager for major *udon* noodle chain Marugame Seimen contracted depression in June of 2019, and was granted industrial-accident compensation in October 2020 by the Mukojima Labor Standards Inspection Office (LSIO).

According to the man’s work records for the period of April to June of 2019, which were submitted to the LSIO, his total overtime worked per month ranged from 44-54 hours; but he had 52-68 hours per month of break time. Remarkably, there were days when there was more break time recorded than overtime. This even included a day when he was recorded as having 6 hours and 45 minutes of breaks during a 15-hour shift that lasted from early morning to late night.

The man insisted that the work records differed from the facts, and that he had actually worked non-stop. He complained that the records of break times were made on orders from supervisors, in order to make his overtime hours look shorter.

(2) Seven nursery-school teachers sue for “¥10 million in unpaid overtime”: “no concept of breaks, we couldn’t even use the toilet”

Seven teachers working at an accredited nursery school in Joso, Ibaraki, have filed a suit in the Mito District Court (Shimotsumo Branch) against the social welfare corporation that runs the facility. They are seeking back-payment of a total of approximately ¥10.52 million in overtime.

The organization was issued a citation on March 2, 2021, by the Joso LSIO for violating Article 37 of the Labor Standards Act (Non-Payment of Overtime).

In a press conference, the teachers explained that “there was no concept of taking breaks. We don’t believe this only happened at our nursery school. We would be happy if the action we are now taking could be an encouragement to other nursery school teachers in similar situations”.

(3) Everyone fired with COVID-19 as reason: taxi drivers sue to invalidate dismissal

Saying their dismissals, with the dropoff in business due to COVID-19 given as a reason, are invalid, seventeen former drivers for a taxi company in the town of Shime, Fukuoka, have sued the company at the Fukuoka District Court. They are seeking confirmation of their worker status and back-payment of wages. The plaintiffs complain that “even though there are various support systems, the company has made no effort to protect employment”.

On April 22, the company notified all forty of its employees that the company would be closed from the next day (April 23) until May 31. Without ever re-opening for business, in late May they notified all the employees that they would be terminated as of June

30. Their explanation was that “with the coronavirus spreading, there is no prospect of business from foreign and other tourists”.

The plaintiffs claim that the company decided to let them all go before receiving approximately ¥5.3 million yen from the government in employment adjustment subsidies, meant to subsidize leave payments, and that “they did not fulfill their duty of effort to avoid firings. This does not meet the conditions for restructuring dismissals, and is invalid”.

(4) Yamaha English School makes its teachers employees: contracts from July

In the issue of the teachers at Yamaha English School, operated by Yamaha Music Japan, who had sought to be changed from outsourcing contracts to official employment, it has come out that the company has introduced employment contracts starting in July.

The teachers were treated as independent contractors under the previous contracts, but by becoming contract employees, they will be able to take paid holidays and be enrolled in employment insurance.

Of the 800 English teachers across the country, about one in ten has switched to an employment contract. Teachers who become contract employees will no longer be paid per lesson, as before, but will receive wages according to their working hours.

3. Situation/Statistics

(1) Number of workers receiving summer bonuses decreases by 790,000 from last summer: polarization increasing

This summer’s bonus payments, just like last winter’s, have continued the slump, and polarization by industry seems likely to continue. While business recovers in industries such as manufacturing, service industries such as food-service and hospitality continue to be in trouble. Not only have bonus amounts been reduced, but a widening number of businesses are not paying bonuses at all. The proportion of workers who receive a bonus has decreased for two years in a row, and some say it is likely to hit a thirty-year low.

According to the MHWL’s Monthly Labor Statistics Survey, last winter’s average bonus payment was about ¥380,000, a drop of 2.6% compared to the previous year. By industry, in food-service the average declined by 20.1%. For the transport/postal and lifestyle-related service industries, the decline was about 17-18%. On the other hand, the electric/gas and finance/insurance industries saw increases.

For the summer bonus, both the number of workers paid and the amounts they received went down. On a base of all workers, including those who did not receive any bonus, the average amount paid decreased by 4.8% (2.8% for manufacturing, 5.2% for other industries), a large slump.

(2) National Pension exemptions and postponements reach new high of 6.09 million: influence of coronavirus

The MHWL has announced that the number of people granted exemptions or postponements to paying their National Pension (*Kokumin Nenkin*) premiums in fiscal 2020 was 6.09 million, a new high record. One of the reasons is considered to be that people have seen reduced income due to the effects of COVID-19.

For the past five years, the number of full exemptions and postponements has fluctuated on either side of about 5.8 million. In fiscal 2020 this rose by 260,000 from the previous year's 5.83 million, reaching 6.09 million. This was more than the previous high record of 6.06 million in fiscal 2013.

Starting in May of last year, in order to help people who lost work, etc., due to the pandemic and therefore saw decreases in their predicted income for that year, a special rule was established to grant full or partial exemptions and postponements to pension premium payments. Under this rule, 200,000 cases were approved in fiscal 2020. The number of 6.09 million released on the 28th is based on different data and statistical methods, and cannot be compared, but the MHWL considers it to reflect the pandemic situation.

“Regarding the Situation of Enrollment and Payment of the National Pension in Fiscal Year Reiwa 2 [2020]”, MHWL

<https://www.mhlw.go.jp/content/12512000/000798218.pdf>

(3) Half are paid less than ¥2 million per year: harsh reality for part-time public servants

The harsh situation of part-time public servants--who account for more than two-tenths of all public-sector employees--has become clear.

A private organization has conducted a survey of non-regular (part-time etc.) public employees, such as librarians and nursery school teachers, receiving responses from just over 1,200 people.

More than 50% of this total had yearly incomes of less than ¥2 million, while one in three was the main breadwinner for their household. Even of those who were not their household's main earner, 52.7% said their family finances would be tight without their income.

In terms of period of employment, about nine in ten had one year or less on the job, and more than four in ten had worked for three years or less, bringing these employees' precarious condition into focus.

When employees were switched onto the fiscal yearly appointment system, introduced in fiscal year 2020, there were cases where some saw large cuts to their pay with no explanation.

Non-regular public employees comprise two-tenths of local government employees, and about four-tenths of national public servants.