



Labor Update No.67 August 9, 2019

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) Basic plan decided for Ainu policy

The government's Headquarters for Promotion of Ainu Policy held its first meeting at the Prime Minister's official residence in Nagatacho, Tokyo, and decided on a basic plan for national Ainu policy. The proposal is tentatively set to be decided on in Cabinet within the month of August.

As basic policies for the government to carry out, the proposal includes such ideas as: putting comprehensive measures into effect for regional development in cities and towns as well as industrial development, in order to give as much support as possible to Ainu people's self-reliance; deepening people's awareness and understanding regarding Ainu history and culture by promoting educational activities regarding the Ainu people and encouraging visitors to the Ainu National Museum and Park "Upopoy" to experience Ainu culture, in order to dispel prejudice; and publicizing the availability of consultations regarding human rights, etc.

(2) MHWL Employment Security Bureau director issues request regarding problematic acts by dispatch companies

"Request Regarding the handling of Transportation Allowances and Base Pay when Dispatched Workers Switch to Unlimited-Term" (*shoku-hatsu* 0726#7) linked below (in Japanese):

<https://www.mhlw.go.jp/content/000533290.pdf>

(3) Regional disparities in minimum wage grow: 17 prefectures still under 800 yen per hour

The Central Minimum Wage Council has submitted a report to Takumi Nemoto, Minister of Health, Welfare and Labor, regarding guidelines for the fiscal 2019 adjustments to regional minimum wages. The report calls for raising the national average minimum hourly wage by 27 yen, to 901 yen per hour. If the minimum wages are raised in accordance with these guidelines, the gap between the highest minimum wage, in Tokyo, and the lowest, in Kagoshima, will widen from 224 yen to 226 yen. While Tokyo and Kanagawa will both see their minimum wages go over 1000 yen for the first time, seventeen prefectures will see theirs remain under 800 yen. Fixing regional disparities and raising the base standard for the various regions will continue to be pressing questions.

Councils in each prefecture will hold discussion based on these guidelines in order to finally decide the minimum wage for each place. A point of contention will be how many prefectures realize raises higher than the guideline. The new minimum wages are set to be announced in August, and to come into effect in October.

“Regarding Adjustments to Minimum Wage Amounts by Region for Fiscal Year Reiwa 1 [2019]” (Central Minimum Wage Council, July 31, 2019) linked below (in Japanese):
https://www.mhlw.go.jp/stf/newpage_06020.html

List of Minimum Wage Guidelines by Prefecture:

https://www3.nhk.or.jp/news/html/20190731/k10012015311000.html?utm_int=nsearch_contents_search-items_001

(4) National Personnel Authority Recommendations, Reiwa 1 [2019] (August 7, 2019):

https://www.jinji.go.jp/kankoku/r1/r1_top.html

(5) Side jobs may be exempted from upper limits: MHWL panel considers multiple proposals on overtime work hours

A Ministry of Health, Welfare and Labor panel of experts debating how to manage working hours of people with second and side jobs put together a report on the 8th. The report presents various alternatives and comes to no conclusion. However, it includes options that would make maximum limits on overtime work not apply to the total hours worked by a person at multiple companies. The labor side has objected to this. Beginning this autumn, with this report as a starting point, the Labor Policy Council will hold debates including representatives of both labor and industry.

The report points out that, since it would be difficult for a company to keep track of the total of a person’s working hours spread across multiple other companies, this would make companies reluctant to allow side work or second jobs. Because of this, with the caveat that consideration be given to maintaining workers’ health, the report suggested an option of allowing a person’s total overtime hours, added together, to go over the overtime limit without constituting an infraction--applying the overtime limit to the person’s overtime hours at each company separately.

The report did not narrow the options down to only this, but also suggested the option of making the added-up total of all working hours subject to the limit. It proposes fixing the number of working hours at each company, both the main and the side job, beforehand for each month, thus making work-hours management easier.

“Panel on Ways of Managing Work Hours in the Case of Second and Side Jobs” report linked below (in Japanese):

<https://www.mhlw.go.jp/content/11201250/000536311.pdf>

2. Legal Violations/Struggles

(1) Sum of working hours accepted and workers’ compensation granted in case of driver employed by two companies: overtime hours in the half year before death exceeded the “karoshi line”

The Kawaguchi Labor Standards Inspection Office has granted recognition for industrial-accident compensation in the case of a man who worked as a truck driver under employment contracts for two companies, saying long working hours were the cause of his death. Under the current system, in the case of second jobs or side work, in principle the working hours are not added together. However, in this case the LSIO judged that, in reality, the man was under instructions and supervision from one company. Therefore they accepted the sum total of his hours worked.

(2) Newly-employed nurse commits suicide, her mother sues: government grants industrial-accident recognition, but hospital still gives no apology or compensation

The government recognized the suicide of a newly-employed hospital nurse as an industrial accident due to overwork. However, since the hospital still gave no apology or compensation, the bereaved family has now filed a lawsuit seeking damages.

Since the hospital offered no apology or compensation, the nurse's mother has sued the managing body, KKR (*Kokka-Komuin Kyosai-Kumiai Rengo*, the Association of National Public Servants' Benefit Societies), seeking just over 94 million yen in passive damages, etc., for their daughter Aya.

(3) "Classroom instructors are workers": Tokyo Labor Commission orders Kumon to bargain

The Tokyo Metropolitan Labor Relations Commission has ordered Kumon Educational Japan Co., Ltd., which runs Kumon cram schools across the country, to comply with collective bargaining, saying the company's refusal to bargain with Zenkoku KUMON Shidosha Union (a union of classroom instructors who have franchise contracts with the company) constitutes an unfair labor practice.

According to the order, instructors are each provided with teaching materials, etc., by the company in order to run their schools. They are under contract to pay the company a part of the fees they collect from students. The union, made up of about 600 instructors, requested collective bargaining seeking, among other things, a reduction in the amount of these payments. The company, however, refused, saying "the instructors are not workers, but business owners".

The Metropolitan Labor Commission concluded that because, among other factors, <1> the company decides the contents of the contracts unilaterally, and <2> the instructors are integrated into the organization as labor essential to the company's business, they count as workers under the Labor Unions Act.

(4) Equal pay: regular employees' pay may be cut--1 in 5 companies "correcting disparities"

In line with the start next April of "Equal Pay for Equal Work", which seeks to eliminate unreasonable disparities in treatment between regular employees and non-regular workers, a survey by staffing company Adecco has shown that one in five major companies might possibly reduce base pay or bonuses for regular staff. The government's equal-pay policy says that cutting regular employees' conditions without a labor agreement is undesirable, but worries are spreading.

(5) Care facility fails to pay wages to foreign student: extra portion is “volunteer work”

A care facility in Kawasaki City has received a citation from the Labor Standards Inspection Office on the grounds that, not only did they make a foreign student work longer hours than the maximum legal limit, they treated the extra hours as “volunteer work” and paid no wages for that time.

At this facility, a Filipina student in her 20s who worked there for three years, until last year, was made to work longer than the legal maximum limit of 28 hours a week overtime. Furthermore, this extra time was treated as “volunteer work”, and was not paid.

3. Situation/Statistics

(1) Tokyo Marine plans to cut back discretionary labor from 2000 people to 500 to deal with risk of illegalities

Major property insurance company Tokyo Marine & Nichido Fire Insurance Co., Ltd. (Tokyo Marine Nichido) has finalized a plan to greatly reduce the number of employees working under a discretionary labor system starting in January of next year. They will cease applying the system to approximately 1500 employees, or just over ten percent of their regular full-time staff, and begin paying them according to the hours they work. These people’s jobs were ones where it was difficult to judge whether they fell within the legal scope for applying a discretionary labor system, and the company decided there could be a risk of this being found illegal in the future.

(2) Nittsu to raise non-regular employees’ pay to same standard as regular staff

Major distribution company Nippon Tsuun (Nittsu) has settled on a plan to raise the wages of non-regular staff starting next April 1, matching them to the level of those paid to regular staff working in the same situation. The aim is to eliminate disparities between regular and non-regular employees.

Nittsu has approximately 40,000 employees. Regular employees subject to transfer to locations nationwide (*sogo-shoku*, general positions) comprise about 11,000 of these; regular employees not subject to transfer (*eria-shoku*, area positions) total approximately 16,000, and the remaining approximately 13,000 are limited-term non-regular employees. Of these, the few thousand who work full-time will be switched to the same pay scale as those in area positions, meaning a raise in their pay.

Nittsu plans to introduce a new evaluation system for regular staff at the same time. The structure where pay increases based on the year of starting work and the number of years in service will be revised, so that the rate of pay increases will vary widely based on each employee’s role or administrative positions held.

The increase in pay for non-regular staff means that the company’s labor costs will increase in April. On the other hand, with the system of pay rises bases on seniority being overhauled, it is considered unclear whether the amount of labor costs can be maintained going into the future. If it cannot be maintained, there is a possibility the amount of money coming to regular staff may decrease.

(3) Number of employed women breaks 30 million; half of these are in non-regular employment with low pay

According to the June Labor Force Survey released by the Ministry of Internal Affairs, the number of women employed increased by 530,000 compared to the same month of the previous year, reaching 30.03 million, the first time this number has exceeded 30 million. The figure for men also increased, by 70,000, reaching a total of 37.44 million. The gap in employment numbers between men and women continues to shrink; but approximately half of working women are in non-regular employment (part-time, temporary, etc.) with pay lower than that of regular employees. Therefore the gender gap in pay remains large.

“Labor Force Survey (Basic Statistics) for June 2019 (Reiwa 1) (preliminary figures)” linked below (in Japanese):

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

(4) Nissan to give wedding vacation and congratulation bonuses for same-sex and common-law marriages

In order to promote diversity and inclusion, Nissan Motor Company, Ltd., has announced that they will now be expanding their granting of wedding vacation and wedding congratulation bonuses to include those in same-sex marriages and common-law marriages.

To promote diversity and inclusion, show respect for the diverse values of their employees, and deepen understanding toward LGBT people and others, Nissan has also been carrying out educational activities for all their staff such as e-learning and seminars, as well as instituting multi-purpose toilets and separate times for health checks.

(5) Hokkaido high-school entrance applications to eliminate “sex” field beginning next spring--consideration for LGBT

The Hokkaido Prefectural Board of Education has settled on a plan to eliminate the “sex” field from prefectural high-school entrance-exam application forms starting in spring of 2020. Behind this is the increasing number of voices in recent years calling for consideration toward sexual minorities (LGBT etc.), some of whom may feel uncomfortable with their own bodily sex. The decision is set to be made official soon.