



Labor Update No.71 October 4, 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.

Law/Policy

Illegal overtime at over 10,000 workplaces, four-tenths of those surveyed: MHWL

The Ministry of Health, Welfare and Labor (MHWL) carried out a survey in 2018 of 29,097 workplaces nationwide that were suspected of having illegal overtime work. The Ministry has announced the results for guidance and supervision: violations of law were found at 11,766 workplaces, or about 40% of those surveyed. The previous survey in 2017 also found over 10,000 workplaces with violations, or approximately 45% of the total surveyed; as different places were surveyed each time, the figures cannot be directly compared, but they make it clear that illegalities remain rampant as before.

With full enforcement of work-style reforms, overtime limits--with penalties--have begun being applied to large companies starting in 2019.

“Heisei 30 [2018] Guidance and Supervision Results for Workplaces Suspected of Overlong Work Hours” linked below (in Japanese):

<https://www.mhlw.go.jp/content/11202000/000342612.pdf>

Legal Violations/Disputes

Foreign technical interns give press conference: long hours, unpaid wages

Two technical interns from China, who worked at a garment company in Yawatahama, Ehime, have claimed there was unpaid overtime and long work hours.

The press conference was held by two Chinese women who worked until April at the garment company and at other affiliated companies. They came to Japan from China’s Shandong Province as technical interns in 2016.

According to the two and to a union supporting them, which is located in Fukuyama, Hiroshima, they worked over 100 hours of overtime nearly every month, and in the worst months about 170 hours overtime. They also had only a few days off per month, and to begin with there was no labor agreement (3-6 agreement) permitting overtime work at all.

They tried negotiation three times to claim the back pay, but the company explained that “we threw away the documents that recorded the details of work hours and

overtime pay”. Thus, the negotiations ended in failure.

“Deducting for tablet used at work is illegal”: Sumitomo Life saleswoman sues

A woman in her 50s who works as an insurance salesperson for the Kyoto branch of Sumitomo Life has filed suit at Kyoto District Court seeking payment from the company of approximately 2.1 million yen that was deducted from her pay between October 2012 and the end of last year. She claims that deducting from pay for such things as usage fees for a tablet device she uses at work, or the cost of calendars to be handed out to customers, is a violation of the Labor Standards Law. According to her lawyer, it is rare anywhere in Japan to see lawsuits over the legality of deductions by companies for business expenses.

According to the brief, the company deducted from salespeople’s pay for the use of their tablets in introducing insurance products to customers (2950 yen per month; paid by company since August 2018), as well as for the cost of PR brochures, candies with the company name on them for distribution to clients, and the calendars that are handed out at the end of each year, under the name of “*kaisha assen buppin* (company mediated materials)”. Phone bills for mobile phones used at work are also paid by the salesperson.

The company instructs these employees to use these tablets and PR brochures in sales, and each salesperson is forced to “purchase” these goods from the company in order to do their sales work. The Labor Standards Law forbids employers from deducting money from wages; the plaintiff asserts that “costs incurred in carrying out work should be borne by the employer”.

After filing the suit, the woman gave a press conference, saying that about 30,000 salespeople nationwide see the same sort of deductions and that “there was no consent to having expenses deducted. Some of my colleagues see their pay fall below the minimum wage after the deductions”.

She says that at the end of the year, nearly 100,000 yen will be deducted for calendars among other things. But the company, saying “the salespeople agree to this”, has refused to do anything. A labor tribunal this summer also failed to solve the problem. The woman says that “I would like to get a satisfactory solution through the courts, and not just put it down to industry custom”.

International union organization once again demands improvements in work environment at Tokyo Olympics construction sites

An international labor union organization that had sent demands to the Olympic Organizing Committee seeking improvements in the work environment at construction sites related to the Tokyo Olympics and Paralympics has made demands once again, saying improvement has not yet been seen. They are calling for hearings with construction workers and for joint inspections of sites.

International union organization Building and Wood Workers International (BWI), which is headquartered in Switzerland had called for improvement to the work environment in an investigative report they sent in May of this year to the Organizing Committee as well as to Tokyo Prefecture and to the Japan Sport Council.

The organization claims that on-site improvements had not gone forward: for example, that even in the extreme heat of this year's summer, measures to protect workers from the heat were inadequate. They held meetings in Tokyo with representatives of the Organizing Committee and others, making demands once more for hearings and joint inspections.

Those in charge of the matter at the labor organization say "four workers involved in construction at Tokyo Olympics sites have died. This is an abnormal situation. As the Games come closer, the sites will become busier and busier. Serious measures must be taken."

On the other hand, the Olympic Organizing Committee says that "we have already created an internal reporting office for workers to report concerns; and inspection is being carried out by the Labor Standards Inspection Office". They claim they will think carefully about instituting hearings or joint inspections.

At the Tokyo Olympics construction sites, as well as the two workers who died in the fall at the Olympic Village site and the crane accident, there was a man who worked at the New National Stadium site who killed himself, and whose suicide was recognized as being due to extreme overwork, gaining approval for workers' compensation.

Also, a man died after a fall this summer at "Tokyo Big Sight" (Tokyo International Convention Center), which is being renovated to serve as a news-media base for the Olympics. The Organizing Committee says the cause of his death was heart failure and it was unknown whether it was work-related, but that "we will take thorough safety measures, including prevention of heatstroke".

Situation/Statistics

Prefectural housing to be opened to "partnership system" couples: Kanagawa

The prefectural governor of Kanagawa has made clear the Prefecture's intention to allow same-sex couples with official recognition under cities' and towns' "partnership systems" to move into prefectural public housing. It is part of measures to increase understanding and support for people of sexual minorities (LGBT etc.). The policy may be put into effect as soon as this November. It is the first case anywhere in Japan of a local government allowing such couples residence in public housing without having a "partnership system" itself.

According to the Prefecture, the households qualifying for prefectural housing are "families based on a married couple or on parent and child", with "common-law" couples also eligible. From now on, same-sex couples with municipal recognition will be accepted as being in a "*de facto* marriage".

Only a limited number of towns and cities in Kanagawa have adopted a partnership system. However, the governor explains that by backing the moves taken by municipalities the Prefecture can "rectify the sense of unfairness". Regarding the introduction of such a system by the Prefecture itself, he rejected this, calling it "more appropriate to do this at the municipal level, since it is municipalities that carry out resident registration and keep the family registers".

Number of foreign children not in school possibly as high as 20,000; half of these unknown to local government

A survey carried out for the first time by the Education Ministry (Ministry of Education, Culture, Sports, Science and Technology/MEXT) has shown that, of the approximately 124,000 foreign-nationality children of elementary and junior-high-school age living in Japan, there is a possibility that as many as 20,000 might not be enrolled in school. The Ministry has also announced that the number of children who do attend elementary, junior high, and high schools and who need Japanese language instruction has reached 50,000, the highest number ever. With the government expanding the intake of foreign personnel, the number of foreign children is likely to increase further, and guaranteeing them educational opportunity is becoming a pressing issue.

People of foreign nationality are exempt from the requirement of mandatory education in Japan. Parents or guardians have no legal obligation to enroll these children in school, and education assistance provided for them by cities and towns tends to be inadequate. In April of this year, an amendment to the Immigration Law came into effect to broaden the admittance of foreign workers. The Education Ministry decided that, in order to consider support measures, it would first be necessary to grasp the state of foreign children's enrollment in school.

Nearly four in ten municipalities did not send school information to families with foreign children. MEXT says that "although there is no obligation to enroll foreign children in school, they still are guaranteed the right to education. We urge municipalities to keep proper track of the enrollment situation and secure appropriate educational opportunities for these children".

In a separate survey also carried out by MEXT, this one every two years, the number of students at elementary, junior high, and high schools who needed to be taught the Japanese language increased from 6,812 to 50,759 over two years. Two in ten of these were not receiving any supplementary lessons or other special instruction. The number of different native languages spoken by these students also increased.

When investigation was done into high school students' rates of dropping out or continuing with school, it was found that foreign students' dropout rate, their rate of employment in part-time or non-regular work (*hiseiki*), and the proportion of them not either getting jobs or continuing with school were all higher than those of the general high-school student population: the dropout rate 7.4 times higher, the *hiseiki* employment rate 9.3 times, and the proportion not either working or continuing their studies 2.7 times higher.

"Survey Results of the State of Foreign Children's Enrollment in School, Etc. (Preliminary Figures) (September 27, Reiwa 1[2019])" linked below (in Japanese):

http://www.mext.go.jp/b_menu/houdou/31/09/_icsFiles/afieldfile/2019/09/27/1421568_001.pdf

"Regarding the Results of 'Survey on the Acceptance Situation of Students Requiring Japanese Language Instruction (Heisei 30 [2018] School Year)'" linked below (in Japanese):

http://www.mext.go.jp/b_menu/houdou/31/09/_icsFiles/afieldfile/2019/09/27/1421569_002.pdf

Abolishing “sex” field on documents considered: Fujinomiya City

In consideration for people of sexual minorities (LGBT etc.), Fujinomiya City has decided to consider eliminating the need to enter one’s sex on public documents where this is unnecessary. The City made this clear in General Questions at the current general city assembly session, and will be working on the exact choice and form of documents.

During General Questions, a city council member stated that “LGBT people may hesitate to fill in the ‘sex’ field on public documents. We would like to see this field eliminated where it is not necessary.” The City government responded that “In regard to public application forms and certificates, we intend to proceed with eliminating the sex field where it is unnecessary.”

Discussion will be held later within City Hall on which sorts of documents this will apply to. It seems likely they will begin with application procedures that may be filed by persons other than the individual in question, such as permits for setting up signs, holding events, and the like. In regard to the form of documents, as well as eliminating the “sex” field outright, other options will also be discussed, such as adding a choice of “other” in addition to “male” and “female”.