

CY Japan Legal Update

November 2016

Employment

The Amendment to the Employment Insurance Act and other related laws relating to expansion of application scope of childcare leave and caregiver leave and prevention of harassment for maternity, child birth, childcare and caregiver leave will come into force on January 1, 2017

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The Law Partially Amending the Employment Insurance Act and Other Laws (“Amendment Law”) was enacted on March 29, 2016. The Amendment Law is a law amending the Employment Insurance Act and related laws including the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (“Child Care and Family Care Leave Law”) and the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (“Equal Employment Opportunity Law”) to related to expansion of application scope of childcare leave and caregiver leave and obliging business operators to take measures for prevention of harassment for maternity, child birth, childcare and caregiver leave and will be enforced on January 1, 2017.

The measures provided for in the Amendment Law are wide ranging and this article will introduce the outline of (1) easing of the requirements for taking childcare leave, (2) easing of the requirements for taking caregiver leave, and (3) prevention measures for harassment for maternity, child birth, childcare and caregiver leave.

1. Expansion of application scope of childcare leave

First, it will become possible to take leave to nurse sick children in half day units. Second, the requirements for taking childcare leave for fixed-term contract workers will be eased. Namely, such requirement for taking will be (a) period of being continuously employed by such business operator is the past one year or more and (b) a person for whom it is not clear that the employment agreement will expire during the period until the date on which the child reaches one year and six months (including the agreement not being renewed during such period). Third, the eligibility for childcare leave will be added to.

Namely, (a) a child during the custody period of special adoption, (b) a child place with adoptive foster parents and (c) other persons similar thereto who were not eligible for childcare leave previously will be added to the persons eligible for childcare leave system.

2. Expansion of application scope of caregiver leave

First, caregiver leave may be taken in parts up to a total of 93 days with a maximum of three times for one eligible family member. Second, it is possible to take caregiver leave in units of half a day. Third, it is possible to use measures for shortening of scheduled working hours (shortened working hours or flex time system, etc.) two times or more within three years from the start of use separately from caregiver leave. Fourth, the right to claim exemption from work at non-scheduled working hours in the period up to termination of caregiver is newly established. Fifth, the requirement of taking caregiver leave of fixed-term contract workers will be eased. Namely, the requirements for taking will be (a) period of being continuously employed by such business operator is the past one year or more and (b) a person for whom it is not clear that the employment agreement will expire prior to the date six months from the date 93 days after the scheduled leave commencement date (including the agreement not being renewed during such period).

3. Prevention measures of harassment for pregnancy, child birth, childcare and caregiver leave

A business operator must take measures required for employment management to prevent acts harming the work environment (namely, harassment and other abusive conduct) due to maternity, childbirth, childcare leave and caregiver leave by superiors or colleagues in the workplace. Specifically, based on the guidelines of the Minister of Health, Labour and Welfare, the business operator is required to provide in the work rules or other document providing for discipline in the work place the policy and measures for the strict treatment of person taking such actions and to inform and educate the workers about such measures and policies.

4. Responses required of business operators

After the enforcement of the revised act, pursuant to the content of above 1. and 2., it will be necessary to the revise the provisions concerning childcare and caregivers in the work rules and to provide in the work rules or other document providing for discipline in the work place the details for measures for person whose actions harass those taking maternity, childbirth, childcare and caregiving leave. In changing the work rules, it is necessary to (1) have hearing of opinion of the representative of the majority or majority of workers, (2) file with the Labor Standards Inspection Office and (3) take procedures to notify the workers.

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