

NO&T Labor and Employment Law Update

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Recent Amendments to Japanese Employment and Labor-Related Laws

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■ Introduction

In this newsletter, we provide updates on recent amendments to Japan's employment-related laws.

■ Amendments to the Childcare and Family-Care Leave Act

In June 2021, the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (Act No. 76 of May 15, 1991) (the "Childcare and Family-Care Leave Act") was amended in order to encourage male employees to take paternity leave, to allow employees to take childcare leave in a more flexible manner, and to relax the requirements for fixed-term employees to take childcare and family-care leave. Certain amendments will come into force on April 1, 2022 and the remaining amendments will come into force on October 1, 2022 or April 1, 2023.

Amendments effective on April 1, 2022

Expansion of Scope of Fixed-Term Employees Who Are Eligible for Childcare and Family-Care Leave

The eligibility requirements for childcare and family-care leave with respect to fixed-term employees will be relaxed. Currently, only fixed term employees who have been continuously employed for one (1) year or more are eligible to take childcare and family-care leave. Under the amendments, the requirements regarding the length of service will be lifted. On or after April 1, 2022, (i) fixed-term employees, except for those for whom it is clear that their employment will be terminated before their child reaches 18 months old, will be eligible for childcare leave and (ii) fixed-term employees, except for those for whom it is clear that their employment will be terminated within six (6) months after the date 93 days have passed from the start date of family-care leave, will be eligible for family-care leave.

Environment Establishment and Confirmation of Individual Employee's Intent regarding Childcare Leave, Etc.

An employer will be required to establish a workplace environment where employees can easily take childcare leave by implementing any of the following measures:

- (i) to conduct training regarding childcare leave and paternity leave;
- (ii) to appoint a department/individual with whom employees may consult regarding childcare leave and paternity leave;
- (iii) to keep records of cases where its own employees actually took childcare leave and/or paternity leave and to share such cases with employees; or
- (iv) to notify its own employees of the system regarding childcare leave and paternity leave and of the company's policy in relation to encouraging employees to take childcare leave.

In addition, when an employee informs the employer that the employee or his spouse is pregnant or has given

birth, etc., the employer is required to explain the following matters to the employee and to confirm whether the employee desires to take childcare leave by having an individual meeting or providing such information in a document:

- system regarding childcare and paternity leave;
- to whom childcare leave and/or paternity leave is required to be notified;
- information regarding childcare leave benefits; and
- the handling of social insurance premiums to be borne by the employee during childcare leave and/or paternity leave.

Please note that among the foregoing, matters in relation to paternity leave will become effective on October 1, 2022.

Amendments effective on October 1, 2022

Paternity Leave to be Newly Introduced

A male employee will be allowed to take paternity leave for up to four (4) weeks within eight (8) weeks after the birth of his child. This paternity leave can be taken by dividing the leave into two separate periods. A male employee who desires to continue to work during his paternity leave may continue to work under working conditions agreed to by the employee, if a labor-management agreement is concluded.

Increased Flexibility in Taking Childcare Leave

An employee will be allowed to take childcare leave by dividing the leave into two separate periods. In addition, if an employee extends his/her childcare leave after the employee's child reaches 12 months, he/she will be able to choose the start date more flexibly (currently, the start date of an extended period must be the date when his/her child reaches 12 months or 18 months old).

Amendments effective on April 1, 2023

An employer who regularly employs more than 1,000 employees is required to publicly disclose the status of its employees' taking of childcare leave once a year. The information to be publicly disclosed is either of (i) the percentage of male employees taking childcare leave or (ii) the percentage of male employees taking childcare leave or days off granted for the purpose of childcare. The disclosure can be made on its own website or the website prepared by the Ministry of Health, Labour and Welfare.

■ **Amendment to the Act on the Promotion of Female Participation and Career Advancement in the Workplace**

Under the amended Act on the Promotion of Female Participation and Career Advancement in the Workplace (Act No. 64 of September 4, 2015), effective April 1, 2022, an employer who regularly employs more than 100 employees will be required to create and publicly disclose an action plan for promoting female participation and career advancement in the workplace. Currently, this obligation applies only to an employer who regularly employs more than 300 employees and, thus the amendment will expand the scope of employers to whom this obligation applies.

■ **So-called "Act on Prevention of Power Harassment"**

In accordance with the amended Act on Comprehensive Promotion of Labor Measures and Stabilization of Employment of Employees and Enrichment of Their Working Lives, Etc. (Act No.132 of July 21, 1966), an employer is required to take measures necessary for preventing power harassment. The amendment came into effect on June 1, 2020, and, though there has been a grace period for small and medium-sized enterprises, the amendment will apply to all employers, including small and medium-sized enterprises, effective on April 1, 2022.

Under the amended Act, an employer is required to take the following measures:

- (i) to clearly articulate the employer's policy regarding harassment, and to notify the employees of and ensure that they understand the policy;
- (ii) to develop a system necessary to receive and respond appropriately to employee' requests for consultation and complaints;
- (iii) to promptly and appropriately respond to reports of harassment (e.g., to investigate the relevant facts, and if the allegations are verified, to give due consideration to the victim and take necessary measures against the perpetrator, etc.); and
- (iv) to take other necessary actions in conjunction with the measures in (i)-(iii) above (e.g., to give due consideration to the privacy of an employee and not to treat disadvantageously an employee who has reported harassment or cooperated with an investigation, etc.).

■ **Expansion of the Scope of Part-Time Employees Who Are Eligible for Social Insurance**

A part-time employee who satisfies all of the following requirements will become eligible for social insurance (i.e., health insurance and welfare pension insurance):

- (i) the employee works for an employer who regularly employs more than 100 insured employees (excluding part-time employees);
- (ii) the employee's standard weekly working hours are 20 hours or more;
- (iii) the employee's monthly salary is JPY 88,000 or more;
- (iv) the employee is expected to be continuously employed for over two (2) months; and
- (v) the employee is not a student.

In Japan, eligibility for social insurance has been gradually expanded to part-time employees. Currently, a part-time employee who works for an employer who regularly employs more than 500 insured employees and who is expected to be continuously employed for one (1) year or more is eligible for social insurance. This requirement (i) will be further relaxed effective as of October 1, 2024, when the eligibility will be expanded to part-time employees who work for an employer who regularly employs more than 50 insured employees.

■ **Concluding Remarks**

Japanese employment regulations have been changed to increase the flexibility and diversity of working styles and the amendments explained above were made in connection with such trend. To comply with amendments to the Childcare and Family-Care Leave Act, employers should take note of the above and reflect them in their employment rules and regulations.

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