

Client Alert

December 2016

Amendments to the Child and Family Care Leave Act and the Equal Opportunity Act

Are you prepared for the amendments to the Child and Family Care Leave Act and Equal Opportunity Act coming into force on January 1, 2017?

As you know, population levels in Japan have stagnated in recent years and are actually beginning to decline. Japan's population is projected to fall below 90 million by 2060, with elderly people making up nearly 40% of that number. To address the projected rapid decline in the size of the labor force, the Japanese government is aggressively promoting a work-life balance. One of the measures related to this promotion is the amendment of the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (the "Child and Family Care Leave Act") and the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (the "Equal Opportunity Act") of March 2016 (effective from January 1, 2017). This amendment is aimed at preventing employees from leaving employment to care for their children and families. This client alert is intended to briefly remind you of the changes that may require your attention.

1. Caregiver Leave

	Currently	After January 1, 2017
Caregiver leave	Can only be taken on a single occasion for up to 93 days.	Can be taken in up to three installments totaling 93 days per family member.
Time off for caregiver	Can only be taken in whole days.	Can be taken in half days.
Measures to shorten prescribed working hours (as an optional measure)	Up to 93 days can be taken in the aggregate with caregiver leave.	Can be taken two or more times in the three years from the date of the first application for measures to shorten prescribed working hours separately from caregiver leave.
Exemption from overtime work	None available.	Establishes a new system enabling employees to apply for an exemption from overtime work until family care needs end.

Requirements for fixed-term employees to apply for caregiver leave	<ul style="list-style-type: none"> (i) The employee has been with the company for at least one year; (ii) the employment relationship between the employee and the company is expected to continue beyond the 93rd day after the day on which the leave is to commence; and (iii) it is not clearly anticipated that the employee's employment agreement will expire and not be renewed on or before the day falling one year after the 93rd day. 	<ul style="list-style-type: none"> (i) The employee has been with the company for at least one year; and (ii) it is not clearly anticipated that the employee's employment agreement will expire and not be renewed on or before the day falling six months after the 93rd day.
Family members for whom caregiver leave can be requested	An employee's spouse or domestic partner, employee's parents, employee's children, parents of an employee's spouse or domestic partner, employee's grandparents, siblings and grandchildren residing with and dependent on the employee.	An employee's grandparents, siblings and grandchildren who are not residing with and not dependent on the employee have been added.

2. Childcare Leave

	Currently	After January 1, 2017
Time off for child sickness/injury	Can only be taken in whole days.	Can be taken in half days.
Requirements for fixed-term employees to apply for caregiver leave	<ul style="list-style-type: none"> (i) The employee has been with the company for at least one year; (ii) the employment relationship between the employee and the company is expected to continue after the child reaches one year of age; and (iii) it is not clearly anticipated that the employee's employment agreement will expire and not be renewed on or before the child reaches two years of age. 	<ul style="list-style-type: none"> (i) The employee has been with the company for at least one year; and (ii) it is not clearly anticipated that the employee's employment agreement will expire and not be renewed on or before the child reaches one year and six months of age.
Children for whom childcare leave can be requested	An employee's children and adopted children	Expanded to include children in preparation for special adoption, etc., who will be newly defined as "quasi-legal" children.

For further information please contact



Tomohisa Muranushi
Partner
+81 3 6271 9532
tomohisa.muranushi@bakermckenzie.com



Kana Itabashi
Partner
+81 3 6271 9464
kana.itabashi@bakermckenzie.com



Mihoko Ida
Counsel
+81 3 6271 9508
mihoko.ida@bakermckenzie.com

Baker & McKenzie
(Gaikokuho Joint Enterprise)

Ark Hills Sengokuyama
Mori Tower 28F
1-9-10, Roppongi, Minato-ku
Tokyo 106-0032, Japan
Tel + 81 3 6271 9900
Fax + 81 3 5549 7720
www.bakermckenzie.co.jp

3. Measures to Support Employees Caring for Their Children and Families

Under the amended Child and Family Care Leave Act and Equal Opportunity Act, companies must establish measures to prevent superiors or colleagues from creating working environments which are hostile to employee pregnancy, childbirth, or the taking of childcare or caregiver leave. Companies must also establish measures to support employees caring for their children and families as provided in the current Child and Family Care Leave Act. The Ministry of Health, Labour and Welfare published the new and amended guidelines regarding required action on August 2, 2016 (which will come into force on January 1, 2017).

We hope you find this helpful. Please let us know if you have any questions.