

## Client Alert

September 2015

### Japan's Act Concerning Promotion of Women's Career Activities Enacted: Companies Should Establish Action Plan by March 2016

On 28 August 2015, the Act concerning Promotion of Women's Career Activities ("PWCA") was passed by the Japanese Parliament. The PWCA will come into force on 1 April 2016. The purpose of the PWCA is to increase opportunities in the workforce for women, including in relation to hiring and promotions, and improving the working environment for women (e.g., by accommodating work life balance needs).

#### Overview of PWCA

Prime Minister Abe and his government believe that having more women join the workforce will promote Japan's economic growth. The PWCA has been developed to help realize PM Abe's strategy.

The PWCA's key point is that it obliges large-scale companies to establish quantitative targets to promote women's career activities. Along with other steps being taken by the government to promote women in the workforce, companies are generally encouraged to promote women's recruitment and career development in their own workplace.

The PWCA will apply to both the public and private sectors. Under the PWCA, the Japanese Government shall establish and implement a policy for the promotion of women's career activities. As part of the implementation of that policy, private companies are also required to establish and implement an action plan.

#### Effective Date

As noted above, the PWCA was passed by the Japanese Parliament on 28 August 2015 and will come into force on 1 April 2016. It is important to note that the PWCA has a limited effective period, as it will only be effective for a 10-year period.

#### Process to be Taken by Companies

By the enforcement date (1 April 2016), a company with 301 or more employees<sup>1</sup> must take the following process:<sup>2</sup>

<sup>1</sup> Part-time employees and fixed-term employees who have continuously worked more than one year are included in the number of employees of a company.

<sup>2</sup> While companies with 300 or less employees are not subject to legal obligation, they are required to try to take actions for promotion of women's career activities under the PWCA.

## Step 1 (Confirmation and Analysis of Current Situation)

The company must confirm certain information concerning women within the company, as follows:

- 1) women's ratio among its employees;
- 2) difference in years of service between men and women;
- 3) working hours; and
- 4) women's ratio among its managerial employees.

Based on the results of the survey on the above matters carried out by the company, the company must analyze the results to identify areas where there is room for improvement in promoting women's career activities.

While it is not currently clear what benchmark/method the company will use to identify whether they have a problem or not based on the survey results, the Japanese Government has said that it will release a recommendable method around October this year. At the same time, the Ministry of Health, Labour and Welfare (the "MHLW") will also propose other types of information which the company may voluntarily survey at its will and so the company could have a greater understanding of its current working environment for women.

## Step 2 (Establishing, Filing, Announcing and Disclosing Action Plan)

Based on the results from Step 1, the company must then establish an action plan ("Action Plan") to rectify deficiencies. The Action Plan must contain: a) terms of the plan; b) a quantitative target; c) a description of actions to be taken by the company, and d) a timeline of the planned actions.

The Action Plan must be: a) filed with the corresponding local Labour Bureau; b) announced to employees; and c) publicly disclosed. The manner in which such internal announcement and external disclosure should be done, and the recommended actions, are currently being developed by the government and will also be published around October 2015.

Around January next year, the Labour Bureau will open a window for the filing of company Action Plans.

## Step 3 (Disclosing Information concerning Women's Career Activities)

Companies shall disclose information concerning women's career activities. The information confirmed at Step 1 could be the same information disclosed for this Step 3. While any other information which can be subject to disclosure under the PWCA has not yet been determined, the MHLW will set forth a list of information around October 2015. Companies must disclose at least one item from the list.

## Good Company Certification

The benefit of participating in this program is that companies which proactively promote women's career activities and meet the criteria established by the MHLW may apply for the "good company certification". Certified companies

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may then use a certification mark on its products and services, advertisements and other documents designated by MHLW.

It is also worth noting that certified companies may receive preferential treatment in case of government procurement.

## Sanction

The PWCA does not impose criminal penalties even if a company does not properly comply with the requirement of the process described above.

The Minister of the MHLW may however request a company to report, and/or give a direction or warning to a company if the Minister deems necessary to do so. Where the requested company does not submit the report or submits a false report, the company may be subject to an administrative penalty up to JPY 200,000.

## Japan Government's Action (Establishing Policy and Guidance)

The Cabinet of the Japanese Government will decide on a master policy for the promotion of women's career activities. Both prefectural and municipal governments will also endeavor to establish a promotion plan about women's career activities in each corresponding jurisdiction, in line with the overarching master policy issued by the Japanese government.

Japan's government will also issue guidance as to how companies are to develop their Action Plans. This guidance will be issued around October 2015 and will cover recommendable methods to identify problems (as mentioned in the Step 1 above) and the recommendable actions (as mentioned in the Step 2 above).