

Changes to Childcare Leave

This issue will provide an overview of the amended Childcare Leave legislation that takes effect in 2022/2023.

■ Maternity Leave and Childcare Leave

For those of you who are unfamiliar with the leave system in Japan relating to childbirth and childcare, there are two different types of legislative leaves; the Maternity Leave and the Childcare Leave. The Labor Standards Act stipulates the Maternity Leave as that which enables female employees to take a leave for 6 weeks before and 8 weeks after childbirth. The pre-delivery leave is granted upon request by the employee, while the post-delivery leave is mandatory regardless of the employee's intention. The employer cannot have the employee work during the post-delivery leave, in principle.

The Childcare Leave is stipulated by the Childcare and Family Care Leave Act (the Act). Unlike the Maternity Leave, both female and male employees can apply for the Childcare Leave until a child reaches one year of age. Female employees can apply for the Childcare Leave without break after completion of the post-delivery maternity leave. In recent years, aiming to encourage employees to take childcare leave more and to continue to work while taking care of children, there have been made several amendments to the Act. Now, for example, the period of leave can be extended up to the child's two years anniversary if certain conditions are met.

■ Key Changes in 2022/2023

● Additional 4 week-leave for fathers

According to the government, more than 80% of mothers take the Childcare Leave, but the rate is only 12% for fathers. To increase the rate of fathers, a new rule has been implemented in October 2022. Employees who are not in the post-delivery maternity leave can apply for a leave of up to 4 weeks within 8 weeks after childbirth. We can say this rule is prepared as paternity leave for fathers, though the law does not mention it directly. The leave can be divided in the two periods within 8 weeks. (to take effect October 2022)

● Flexibility to allow two applications

Employees could apply only one time for a single leave period until the child reaches one year of age before the revision. From October 2022, two applications become allowed so that the leave can be divided into two separate periods within the granted period. Employees will be able to enjoy more flexibility in planning leave considering the child's circumstances and keeping balance with work. (to take effect October 2022)

● Enhancement of consultation with employees

The employer is required to take some measures in the workplace to encourage employees to take childcare leave, such as conducting trainings, setting up a consultation desk, etc. Also, when an employee has reported the pregnancy of self or spouse, the employer must explain well to the employee individually about the childcare leave legislations, the company's policies and procedures, and confirm his/her intention of taking a childcare leave. (to take effect April 2022)

● Ease of requirements for fixed-term employee

Until the revision, fixed-term employees must have worked continuously at the company for at least one year to apply for a childcare leave. This rule was abolished to provide more opportunity for the fixed-term employees. However, the employer can make this rule valid by entering a labor-management agreement with the representative employee to exclude those employees from the scope of applicable employees. (to take effect April 2022)

● Obligation of publishing data of childcare leave taken

Companies with more than 1,000 employees are required to publish the data relating to childcare leave taken by their employees. (to take effect April 2023)