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## **LABOR AND EMPLOYMENT LAW BULLETIN (NO. 17)**

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### **Statutes to Be Enforced on April 1, 2005**

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The following are some of the statutes which are supposed to be applicable and enforced as of April 1, 2005.

#### **1. Child-Care & Family Care Leave Act**

- Under certain circumstances, Child-Care Leave or Family Care Leave will have to be given even to those employees whose employment contracts have a definite period.
- The period of Child-Care Leave currently lasts “up until the child reaches one year of age.” This will effectively be extended to last “up until the child reaches one and a half years of age” under certain circumstances.
- Employers will have to give at least 5 days of special leave to employees, apart from days of annual paid leave, when their child who is not old enough to go to elementary school gets sick or injured.
- The minimum number of days allotted for Family Care Leave will be 93 days, and may be taken sequentially or divided into segments by the employee. (Currently, the period is three months. Further, it cannot be broken up into segments, and employees must therefore forfeit any remaining leave, if any (for instance, you forfeit one month of leave if you take only two months leave).)

#### **2. Personal Information Protection Act**

It will be necessary, from a practical viewpoint, for a company to establish a set of rules regarding the protection of personal information and incorporate them into its Rules of Employment, as well as to educate and train its employees concerning those rules, for example, by way of a seminar.

#### **3. Patent Act**

The current statute stipulates that a company is entitled to patent and/ or other rights in inventions which one of its employees has made in the course of his/ her employment with the company if it pays him/ her “an appropriate amount of money”. What constitutes an appropriate amount of money may be determined by employment contracts or the rules of the company so long as the manner in which the provisions stipulating the amount are set up and determined is considered appropriate.

#### **4. Welfare Pension Insurance Act**

When a Welfare Pension Fund is established by a company or companies, the minimum number of people to be insured is 1,000 (if a single company is going to establish the Fund) or 5,000 (if there is more than one company establishing the Fund).

If the financial situation of a Welfare Pension Fund becomes so poor that the amount of money held in the fund reserved for pension payments is far below the minimum funding requirement, then the Fund may be required to prepare a five-year improvement plan and submit the same to the Ministry of Health, Labor & Welfare for approval.

### 1. 育児介護休業法

- ・ 期間を定めて雇用される労働者に対して、一定の場合に育児休業や介護休業が適用されるようになりました。
- ・ 1歳に満たない子に関し認められていた育児休業が、一定の場合に1歳半に満たない子に関し認められることとなりました。
- ・ 子が負傷したり疾病にかかったりした場合の特別の休暇を5日与えなければならないこととなりました。
- ・ 介護休業の取得回数について、いままで3ヶ月を上限とし1回のみであったが、これが93日を上限とし複数回可能となりました。

### 2. 個人情報保護法

個人情報の取り扱いに関する規程を就業規則の一部という形で定める等の、安全管理措置をとる必要が生じてきます。

### 3. 特許法

従業員が発明をした場合には「相当の対価」を会社が払えばそれに対する特許権等を会社が手に入れることができます(特許法 35 条)。この「相当の対価」の額ですが、契約、就業規則等で定めておけば原則としてこの定めが優先することとなりました。この規定は、実用新案、意匠にも適用されます。

### 4. 厚生年金保険法

厚生年金基金の設立のための人数について、単独事業主の場合には 1000 人以上、複数事業主の場合には 5000 人以上となりました(厚生年金基金令 1 条)。

また、年金給付等積立金の額が最低積立基準額を著しく下回っている基金においては、財政の健全化に関する 5 ヵ年計画を定めて厚生労働大臣に届けその承認を受けなければならない場合があることが規定されました(厚生年金保険法 178 条の 2、厚生年金基金令 55 条の 3)。

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Should you wish to receive further information as to the above-mentioned, and/or on whether your company is in compliance with labor/employment law, contact your regular attorney or **Hideki Thurgood Kano** (tel: 81-3-6888-1061, e-mail: [hidekithurgood.kano@amt-law.com](mailto:hidekithurgood.kano@amt-law.com)).