

# LABOR AND EMPLOYMENT LAW BULLETIN

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## Amendment to the Child Care and Family Care Leave Act

### 1 Amendment to the Child Care and Family Care Leave Act

The Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave (Act No. 76 of May 15, 1991, as amended, the "Act") was recently amended, as a countermeasure against the falling birthrate, for the purpose of improving employment conditions so that both male and female workers may continue working while raising children or caring for family members. The amendments became finally effective on June 30, 2010. However, for small and medium sized companies which do not regularly have more than 100 employees, some of the amendments will become effective from July 1, 2012.

### 2 Employer's Obligations to Establish Shortened Working Hours and Other Measures

Under the amendment, an employer shall establish a system to shorten the specified working hours of a worker who is taking care of a child less than three years of age. If requested by a worker taking care of a child less than three years of age, an employer shall not extend the specified working hours for overtime work. In addition, a worker taking care of a child who has not reached commencement of the elementary school, may

obtain leave of up to 5 days per year (or leave of up to 10 days per year if the worker is taking care of two or more children who have not reached commencement of the elementary school).

### **3 Amendment to Promote Further Participation in Child Care**

Under the amendment, if his/her spouse also takes child care leave, a worker may take child care leave until his/her child becomes one year and two months of age. This amendment is an improvement on what was formerly available to workers, as in principle, child care leave was only available to a worker until his/her child reached one year of age. Further, under the amendment, a male worker is allowed to take child care leave on two occasions per child, if the first child care leave is taken within eight weeks after his wife gives birth. This amendment is another improvement on what was formerly available to workers, as a worker could only take child care leave on one occasion per child. Finally, the exception under the prior law that allowed an employer not to grant child care leave to a worker whose spouse did not have an occupation by execution of an employer-employee agreement was abolished under the amendment.

### **4 Leave to Care for a Family Member**

Under the amendment, a worker caring for a family member may obtain up to 5 days of leave to care for a family member per year (or up to 10 days per year if a worker is caring for two or more family members)

### **5 Resolution of Disputes/Sanction against Violation to the Act**

The following changes involving dispute resolution procedures and sanctions are in effect. Under the amendment, procedures have been established to allow directors of the Prefectural Labor Offices and conciliation commissioners to resolve disputes between an employer and a worker regarding child care leave and family care leave, etc. In addition, the name of the employer may be publicly announced where it has not complied with a recommendation of the Minister of Health, Labor and Welfare pursuant to the Act. Under the amendment, an employer may also be subject to a civil fine of not more than 200,000 yen for failing to report or making a false report under the Act.

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## **1 育児・介護休業法の改正**

少子化対策の観点から、男女ともに子育て・家族の介護をしながら働き続けることができる雇用環境を整備することを目的として、「育児休業、介護休業等育児又は家族介護を行う労働者の福祉に関する法律」(平成3年5月15日法律76号)が改正されました。本改正は、平成22年6月30日に全面的に施行されました。ただし、常時100人以下の労働者を雇用する中小企業については、一部の規定についてのみ、平成24年7月1日から施行されます。

## **2 短時間勤務制度等の義務化**

改正法では、3歳までの子を養育する労働者について、短時間勤務制度を設けることが義務付けられました。また、3歳までの子を養育する労働者から請求があった場合には、所定外労働を免除することが義務付けられました。さらに、子の看護休暇制度の拡充が求められ、事業主は、労働

者の養育する小学校就学前の子が、1人であれば年5日(従来どおり)、2人以上であれば年10日の看護休暇を付与しなければなりません。

### 3 父親の育児への関与を促進するための改正

改正法では、父母がともに育児休業を取得する場合、子が1歳2か月に達するまで(従来は原則1歳に達するまで)育児休業を取得することができます。また、父親が1度育児休業を取得した場合でも、それが妻の出産後8週間以内であった場合には、再度の育児休業取得が可能です(従来は原則1回のみ取得可能)。さらに、労使協定によって配偶者が専業主婦(夫)であれば育児休業を取得不可とできた従来は廃止されました。

### 4 介護のための短期休暇制度

改正法では、介護のための休暇制度の創設が求められ、事業主は、労働者の要介護状態の家族が、1人であれば年5日、2人以上であれば年10日を付与しなければなりません。

### 5 紛争解決制度、法違反に対する制裁の強化

改正法では、育児・介護休業の取得等に伴う苦情・紛争について、都道府県労働局長による紛争解決の援助および調停委員による調停制度が設けられました。法違反の勧告に従わない場合には、企業名が公表され、また、求められた報告をせず、あるいは、虚偽の報告をした者は20万円以下の過料に処せられます。



This law bulletin is published as a general service to clients and friends and does not constitute legal advice. Should you wish to receive further information regarding the above-mentioned matters, and/or wish to consult as to whether your company is in compliance with labor/employment law, please contact:

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Kazutoshi Kakuyama／角山 一俊（パートナー）

Direct: 81-3-6888-1036／Email: [kazutoshi.kakuyama@amt-law.com](mailto:kazutoshi.kakuyama@amt-law.com)

Hideki Thurgood Kano／嘉納 英樹（パートナー）

Direct: 81-3-6888-1061／Email: [hidekithurgood.kano@amt-law.com](mailto:hidekithurgood.kano@amt-law.com)

Yukiko Imazu／今津 幸子（パートナー）

Direct: 81-3-6888-1063／Email: [yukiko.imazu@amt-law.com](mailto:yukiko.imazu@amt-law.com)



## CONTACT INFORMATION

### Anderson Mori & Tomotsune

Izumi Garden Tower  
6-1, Roppongi 1-chome  
Minato-ku, Tokyo 106-6036  
〒106-6036  
東京都港区六本木一丁目6番1号  
泉ガーデンタワー38階（総合受付）

Tel: 03-6888-1000（代表）  
Email: [inquiry@amt-law.com](mailto:inquiry@amt-law.com)  
URL: <http://www.amt-law.com/>