



Changes to Childcare Leave, Caregiver Leave and Other Measures for the Welfare of Caregiving Workers under Japanese Law



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I. Introduction

Since its enactment in 1991, Japan's 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**”)¹ has been revised several times in line with changes in workers' work styles, increase of dual-income families and the number of women advancing in society as well as drastic changes in how childcare and nursing care should be provided with the population rapidly aging.

The amendments to the Child and Family Care Leave Act will take effect in two stages on April 1, 2025 and October 1, 2025, and impact important issues for employers. However, the enhancement of support systems to balance work and childcare or nursing care will help companies secure essential human resources from leaving and reduce the number of employees resigning. This is crucial since, particularly after Covid-19, the birthrate has been declining at an accelerating pace throughout Japan, while in contrast, the so-called “2025 problem,” where the first baby boomers who were born soon after WWII are now becoming over 75 years old, is emerging and nursing care is becoming an inevitable issue for more and more people.

II. Amendments concerning Childcare

1. Overview

On May 31, 2024, the Act on the Partial Amendment to the Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave and the Act on Advancement of Measures to Support Raising Next-Generation Children (Act No. 42 of 2024) was promulgated to partially amend the Child and Family Care Leave Act and the Act on Advancement of Measures to Support Raising Next-Generation Children (the “**Next-Generation Children Act**”).²

The amendments mainly aim to: (a) expand measures to realize flexible work styles based on the age of children, (b) expand the obligation to publicly disclose the status of childcare leave taken by employees and promote measures to support the development of the next generation, and (c) prevent employees from quitting due to caregiving.

This article will introduce the major amendments that will have a substantial impact on labor management for employers.

1. Act No. 76 of 1991, as last amended by Act No. 42 of 2024.

2. Act No. 120 of 2003, as last amended by Act No. 42 of 2024.



2. Amendments Effective from April 1, 2025

(a) Revision of the Child Nursing Leave

Under the current law, an employee who is caring for a pre-elementary school child may take up to five days³ of child nursing leave per year under certain conditions. If an employee requests leave to care for a child, as a general rule, the employer cannot refuse such request.⁴ Due to the amendment that will take effect on April 1, 2025, the scope of employees eligible for child nursing care leave will be expanded with additional grounds for such leave. In particular, child nursing leave will be available not only to employees with pre-elementary school children but also (i) those who have children who have not yet finished their third grade of elementary school, and (ii) employees who have been continuously employed for less than six months.

Besides the current grounds for nursing care leave, (i) classroom closures due to infection, and (ii) attendance of the entrance or graduation ceremonies of their children will be added as grounds for such leave.

In light of the additional grounds for taking such leave, the name of the leave will be changed from “nursing leave” to “leave for nursing, etc.”⁵

(b) Expansion of Overtime Work Restrictions

The current law states that (i) off-scheduled time work, (ii) overtime work, and (iii) late-night work must be restricted upon the request of an employee who is raising children, subject to certain conditions. Specifically, employees who are raising pre-elementary school children may request restrictions

on overtime work and late-night work, but only employees raising children under three years old may request restrictions on off-scheduled time work.⁶ Once the amendment takes effect on April 1, 2025, eligibility for the restriction on overtime work will be broadened and any employee raising a pre-elementary school child may request it.⁷

(c) Telework as an Alternative to the Shortened Working Hour System

Under the current law, employees raising children under three years old may request that they adopt a shortened working hour system. However, if there is specific work for which it would be inappropriate to apply such system, then employees engaged in that work may only be exempt from this shortened working hour system by concluding a labor-management agreement, and they would be required to take alternative measures.⁸ Once the amendment takes effect on April 1, 2025, telework will be one of those measures.⁹

(d) Expansion of the Obligation to Publicly Disclose the Status of Male Employees Taking Childcare Leave

The obligation to publicly disclose the status of male employees taking childcare leave was introduced by an amendment to the Child and Family Care Leave Act that took effect on April 1, 2023. Under the current law, employers with more than 1,000 full-time employees must publicly announce within three months after the end of each fiscal year the percentage of male employees who took childcare leave, etc., in the previous fiscal year.¹⁰

3. 10 days per year if the employee has two or more pre-elementary school children.

4. Child and Family Care Leave Act, arts. 16-2(1) and 16-3(1).

5. *Id.*, as amended, art. 16-2(1).

6. Child and Family Care Leave Act, Chapters 6-8.

7. *Id.*, as amended, art. 16-8(1).

8. Child and Family Care Leave Act, art. 23(1) and (2).

9. *Id.*, as amended, art. 23(2)(i).

10. Child and Family Care Leave Act, art. 22-2.



Once the amendment takes effect on April 1, 2025, the requirement will change and the number of employers subject to this obligation will expand to cover those employing more than 300 full-time workers.¹¹

(e) Promotion of Telework¹²

Under the amendment that will take effect on April 1, 2025, an employer will be required to make an effort to take measures so that employees raising children under three years old can choose telework as their work style.¹³

3. Amendments Effective from October 1, 2025

(1) Measures to Realize Flexible Working Hours During Childcare

Under the current law, only employees raising children under three years old are eligible to use the shortened working hour system or alternative measures, such as changing their starting time of work. However, under the amendment that will take effect on October 1, 2025, employers will be required to select and adopt two or more of the following five measures to realize flexible working styles during such period:¹⁴

- (a) Change the starting time of work, etc.;
- (b) Telework, etc.;
- (c) Establish and operate childcare facilities, etc.;
- (d) Grant leave to support compatible childcare and work; and
- (e) Provide a shortened working hour system.

(2) Expansion of the Obligation to Inform and Confirm the Intention of Employees about Work, Childcare Balance, etc.

Under the current law, when an employee informs the employer of a pregnancy or childbirth, the employer must inform such employee about the childcare leave system and the department within the company where the leave request may be made. The employer must also confirm the employee's intention to take such leave.¹⁵

Once the amendment takes effect on October 1, 2025, in addition to informing each employee about the details of the available support systems for balancing work and childcare and the method of submitting requests, the employer must inquire about the employee's intentions concerning balancing work and childcare, and give consideration based on the employee's intentions.¹⁶

The MHLW published an example of a written form which can be used for the individual notification and confirmation of an employee's intentions.¹⁷ However, even after giving it due consideration, the employer can lawfully refuse to take the measures requested by the employee, such as when it would be impossible to take such measures. In such cases, it is essential for the employer to explain the reasons for such difficulty to the employee.¹⁸

11. *Id.*, as amended, art. 22-2.

12. Telework is defined as work performed by employees using information and communication technology outside the office (Guidelines for the Promotion of Appropriate Introduction and Implementation of Telework of the Ministry of Health, Labor and Welfare ("MHLW")).

13. Child and Family Care Leave Act, as amended, art. 24(2).

14. *Id.*, art. 23-3(1).

15. Child and Family Care Leave Act, art. 21(1).

16. *Id.*, as amended, art. 21(2).

17. See <https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/000103533.html> (in Japanese).

18. See MHLW, "Q&A on the Child Care and Family Care Leave Law Amended in 2024," Q2-35.



III. Amendments concerning Nursing Care

1. Expansion of the Scope of Employees for Nursing Care Leave

Under the current law, employees who (a) work two or fewer days per week, or (b) have been continuously employed for less than six months, can be excluded from taking nursing care leave by concluding a labor-management agreement with the representative of the employees.¹⁹

Under the amendment that will take effect on April 1, 2025, however, the second exception will be removed, so after such amendment takes effect, it will no longer be possible for employers to exclude employees who have been continuously employed for less than six months from taking the nursing care leave.

2. Obligation to Inform and Confirm the Intention of Employees when Nursing Care is Requested

Under the current law, employers are not required to either inform employees about the nursing care leave system or confirm their intention to use such system, as employers are required to do with respect to the childcare leave system, but under the amendment that will take effect on April 1, 2025, employers will be obliged to inform and confirm the intent of employees regarding the nursing care leave system.²⁰

3. Providing Early Information regarding Support Systems for Balancing Work and Nursing Care

As a measure to inform employees early about existing support systems, the amendment that will take effect on April 1, 2025 obliges employers to provide each employee information on the details of systems that support balancing work and nursing care at an appropriate time to provide such information, such as

the day the employee reaches the age of 40.²¹

4. Establishment of a Work Environment to Prevent Nursing Care Employees from Resigning

Under the amendment that will take effect on April 1, 2025, employers will be obliged to take one of the following measures to ensure that applications for nursing care leave and nursing care, etc., are handled appropriately.²²

- (a) Provide training on the nursing care leave, the nursing care leave balance support system, etc.;
- (b) Establish a consultation system for nursing care leave and nursing care leave balance support;
- (c) Collect and provide information on examples of cases of nursing care leave taken by employees and use of the nursing care leave balance support system; and
- (d) Inform employees of the company's policy on promoting the use of nursing care and the nursing care leave balance support system.

5. Promotion of Telework

Under the amendment that will take effect on April 1, 2025, the employer will be obliged to make an effort to take measures so that those employees who care for family members in need of nursing care can choose telework as their work style.²³

IV. Concluding Remarks

Employers must be prepared to meet the expanded employee welfare obligations under the upcoming amendments discussed above. If an employer violates any of the obligations under the Child and Family Leave Act, including the amended requirements, the MHLW may impose corrective actions. Failure to comply with the said agency's recommendations may lead to the

19. Child and Family Care Leave Act, art. 16-6(2), proviso of art. 6(1), and art. 6(2).

20. Child and Family Care Leave Act, as amended, art. 21(2).

21. *Id.*, art. 21(3).

22. *Id.*, art. 22(2) and (4).

23. *Id.*, art. 24(4).



company's name being publicly disclosed. Therefore, it is essential for employers to properly understand the amendments and adapt internal working rules accordingly. Moreover, appropriate compliance with the amended Child and Family Leave Act will help prevent employees from resigning. From this perspective, employers must update their labor management systems.

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