

**Editorial Note:**

Since a person who purchases persons strongly restricts the freedom of trafficked victims in order to recover his or her expenses, the act itself of buying persons is the object of punishment. Since selling persons is always the very act for the purpose of profit-making, the legal term of imprisonment for selling persons is the same as that of buying persons for the purpose of profit-making and so on.

Since the interest protected by the law of trafficking in persons is the individual interest of victims' freedom, a person who sells or buys persons with the consent of the victims cannot be punished for trafficking in persons.

## **6. Labor Law**

### **The Amendment of Child Care Leave and Family Care Leave Law**

Law No. 160, December 8, 2004 (Effective on April 1, 2005)

**Background:**

Recently, the importance of the "work life balance" has grown. For all the attempts that are made to improve the child care leave and family care leave system to promote it, a lot of women who want to keep working have to quit work because of their pregnancy and childbirth.

Workplaces in Japan still have not achieved the ideal environment where a man and woman in employment can together take care of their children. The fact that few Japanese men take child care leave indicates that.

The rapid progress of the aging society with fewer children will have a crucial impact on the social economy in Japan; it is said that the heavy load of both working and parenting partly causes the decrease in children. So it is necessary to make better working conditions that allow workers to balance their work with child care.

Therefore, the Japanese government submitted a bill that would

amend a part of the Child Care Leave and Family Care Leave Law to the 159th Diet on February 10, 2004. Then it passed the House of Representatives on December 1, 2004 after some discussion and correction in the 161st extraordinary Diet session. The amendment was promulgated on December 8, 2004 and enforced on April 1, 2005.

### **Main Provisions:**

1. Expansion of the workers who can take childcare leave and family care leave:

In this amendment, an employee who meets the following conditions is newly targeted for child care leave and family care leave [Art. 5(1)] and [Art. 11(1)].

Child Care Leave: An employee who is employed continuously by one employer for no less than a year and expected to be employed after the day his/her child reaches one year old.

Family Care Leave: An employee who is employed continuously by one employer for no less than a year and expected to be employed 93 days after his/her family care leave is scheduled to begin.

2. Prolongation of child care leave period:

In this amendment, an employee is allowed to take child care leave until his/her child turns one year and six months old if he/she has some special reasons [Art. 5(3)].

3. Easing of restrictions concerning frequency of family care leave:

An employee was able to take three-month family care leave only once per family member. In this amendment, an employee is permitted to take family care leave whenever his/her family needs nursing. However, the total leave days are limited to within 93 days per one family member [Art. 11(2)].

4. Foundation of child's nursing leave system:

The employer was only required to make an effort to provide child's nursing leave so far. In this amendment, child's nursing leave becomes the employers' obligation; an employee has, if he/she applies for it, the right to take leave for as long as five days a year when he/she has to nurse his/her child who gets sick or injured [Art. 16-2(1)].

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Child care leave and family care leave aim to prevent employment relations from ending because of child care or family care and to attempt to make employment relations continue. But, it was thought that this leave system did not suit “workers” whose employments are normally limited to not more than a year because child care leave and family care leave could be long term. Therefore, they were not allowed to take child care leave and family care leave.

However, the number of fixed term workers is increasing year after year and many of them continue their employment relations with their labor contracts renewed repeatedly. In this amendment, one of whose purposes is to deal with this situation, an employee who is employed as a fixed time worker gets to be able to take child care leave and family care leave only if his/her employment relation is expected to be considerably long.

**7. International Law****Multilateral:**

Date Coming into Force with Respect to Japan M/D/Y	Date of Adoption	Treaties and Other International Agreements
2/16/2005	12/11/1997	Kyoto Protocol to the United Nations Framework Convention on Climate Change
2/24/2005	5/25/2000	Optional Protocol to the Convention on the Rights of the Child on the Sales of Children, Child Prostitution and Child Pornography