

The Fixed-Term Contract Employees and Childcare Leave

Summary

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Study Period

Fiscal year 2006 and 2007

Objectives of Study

In accordance with the amended Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave (the Child-Care and Family-Care Leave Law) implemented in April 2005 (hereinafter referred to as the "Amended Act"), an employee who is employed by a company under an employment contract with a specified period of time (a fixed-term contract employee) is entitled to take childcare leave. After the implementation of the Amended Act, the Japan Institute for Labour Policy and Training was commissioned by the Ministry of Health, Labour and Welfare to carry out the research entitled "survey on childcare leave and family-care leave taken by fixed-term contract employees." This report provides a summary of the result of the research.

The Child Care Leave Law originally implemented in 1992 provides that employees are entitled to take childcare leave even if the company for which such employees are working has not prepared the childcare leave system. Since then, an increasing number of companies have established the childcare leave system and stipulate it in their work rules and other employment regulations. While non-regular workers with fixed-term contract have increased mainly among the young generation, such as part-time workers,

fixed-term contract workers in full-time and temporary agency workers, it was considered that the childcare leave system was not fit for fixed-term contract employees, as the system was supposed to be preconditioned for continuous employment.

However, although the period of their employment contract is limited in its form, there are many workers who are employed continuously by companies which repeatedly renew the fixed-term contract with their employees. It was interpreted under the case law that employees who were substantially the same as employees with a contract of open-ended period of time were entitled to take childcare leave. With the Amended Act which provides conditions for fixed-term contract employees to take childcare leave, it is expected that more fixed-term contract employees will be able to continue their employment without being forced to leave their jobs during their pregnancy and childbirth period.

As the research was conducted after relatively a short period of implementation of the Amended Act (only after two years), there were a few fixed-term contract employees who actually took childcare leave. However, an analysis on childcare leave taken by the fixed-term contract employees and their needs suggests various issues to be solved so that the childcare leave system for fixed-term contract employees will be pervasive in companies. Below is a summary of these issues.

Summary of Result of Analysis

1. Overview of result of analysis

Analysis is made on the “survey on childcare leave and family-care leave taken by fixed-term contract employees” in order to clarify the actual situation where the childcare leave is taken by fixed-term contract employees after the implementation of the Amended Act and to identify the issues to be solved so that the fixed-term contract employees who will take childcare leave and will continue their employment after the leave may increase. A summary of the results of analysis is as follows:

- (1) About 80% of business establishments continue employment of fixed-term contract employees by repeatedly renewing the employment contract with them.
- (2) Among the business establishments which have established the childcare leave system for fixed-term contract employees, about two-thirds of them have amended their system to cover such employees at the time when the Amended Act was implemented. There are not many fixed-term contract employees who have taken childcare leave, but there are a few who have actually taken the leave in the business establishments which continue their employment by repeatedly renewing the employment contract with them.

- (3) There is a strong need among fixed-term contract employees to take childcare leave, and more fixed-term contract employees working in the same manner as regular workers in the same workplace wish to be employed continuously during their child-rearing period. However, with regard to the employees working more than 30 hours a week, many of them have wishes to move to another company, while they are willing to work continuously at the same time.
- (4) There are not many business establishments that have carried out any survey of their fixed-term contract employees' needs or labor-management consultation for the purpose of understanding their needs of support for work-life balance. In some business establishments where fixed-term employment contracts are continuously renewed, actions are taken to understand the needs of such employees and to operate the childcare leave system in such a manner that suits the employees' situation, e.g. relaxing the conditions to take the leave. In such offices, there are more employees who have actually taken childcare leave.

Following is a summary of each chapter, in which the above-mentioned results of analysis are discussed.

2. Summary of each chapter of Main Report

Chapter 1: Employment situation of fixed-term contract employees (on the basis of Business Establishment Survey)

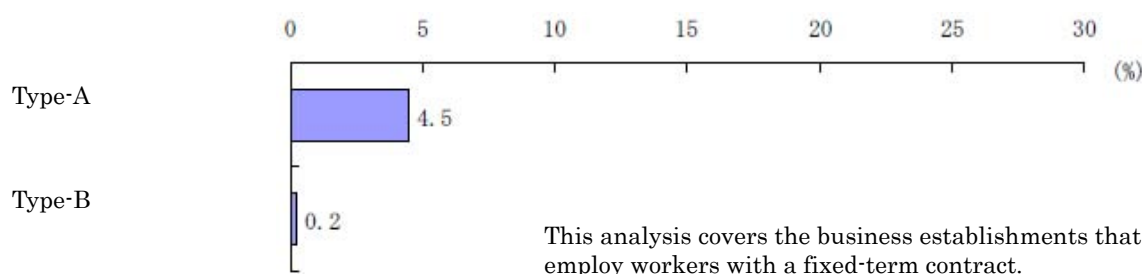
About 80% of the surveyed business establishments repeatedly renew the fixed-term contract with employees without setting any maximum limit of renewal. Many of these business establishments utilize fixed-term contract employees working in a manner similar to regular workers in terms of working hours and job specification. Those business establishments that repeatedly renew the fixed-term contract with employees also tend to take actions for equilibrium treatment between regular workers and fixed-term contract employees and equilibrium treatment between men and women. It is assumed that many business establishments actively utilize fixed-term contract employees by renewing the employment contract with them repeatedly although such contract in its form provides a definite period of time.

Chapter 2: Existence of provisions of childcare leave system for fixed-term contract employees (on the basis of Business Establishment Survey)

Among the business establishments which currently provide the childcare leave system for fixed-term contract employees in their work rules, about two-thirds of them have prepared the provisions of such system when the Amended Act was implemented.

Around 50% of the business establishments which continuously renew the fixed-term employment contract provide the childcare leave system for fixed-term contract employees, and the system is also established in more than 50% of the business establishments where fixed-term contract employees whose jobs are very similar to those of regular workers or where there are some regular workers whose employment contract was converted from one with a specified period of time. The system is implemented in more of the business establishments that take actions for equilibrium treatment between regular workers and fixed-term contract employees or that have established the general employer’s action plan under the Act for the Promotion of Measures to Support the Fostering of the Next Generation (hereinafter referred to as the “Next Generation Act”). Whether the company has the childcare leave system for fixed-term contract employees depends largely on company size, and small and medium-sized companies with less than 300 employees face the challenge of pervasiveness of the system.

Figure1: Percentage of business establishments where there are some fixed-term contract employees who have taken childcare leave, sorted by renewal of the fixed-term contract



Type-A : Business establishments where there are fixed-term contract employees whose employment contract has been renewed and no maximum limit of renewal is set.

Type-B : Business establishments where there are fixed-term contract employees whose employment contract has not been renewed or the maximum limit of renewal is fixed.

Chapter 3: Actual situation of childcare leave taken by fixed-term contract employees (on the basis of Business Establishment Survey)

As there is only a short period of time after the implementation of the Amended Act, there are not many cases where fixed-term contract employees have actually taken childcare leave. However, some of the fixed-term contract employees whose employment contract is continuously renewed by the company have taken the leave (see Figure 1).

Among them, there are more fixed-term contract employees who have taken childcare leave in the business establishments where they are working in the same manner as regular workers in terms of job specification or where some of the employment contracts with a specified period of time were converted to those for regular workers. Childcare leave is taken more often by fixed-term contract employees working in the business establishments which take measures for equilibrium treatment between regular workers and fixed-term contract employees or which have established the general employer's action plan under the Next Generation Act.

Chapter 4: Analysis of employees who have taken childcare leave (on the basis of Employee Survey)

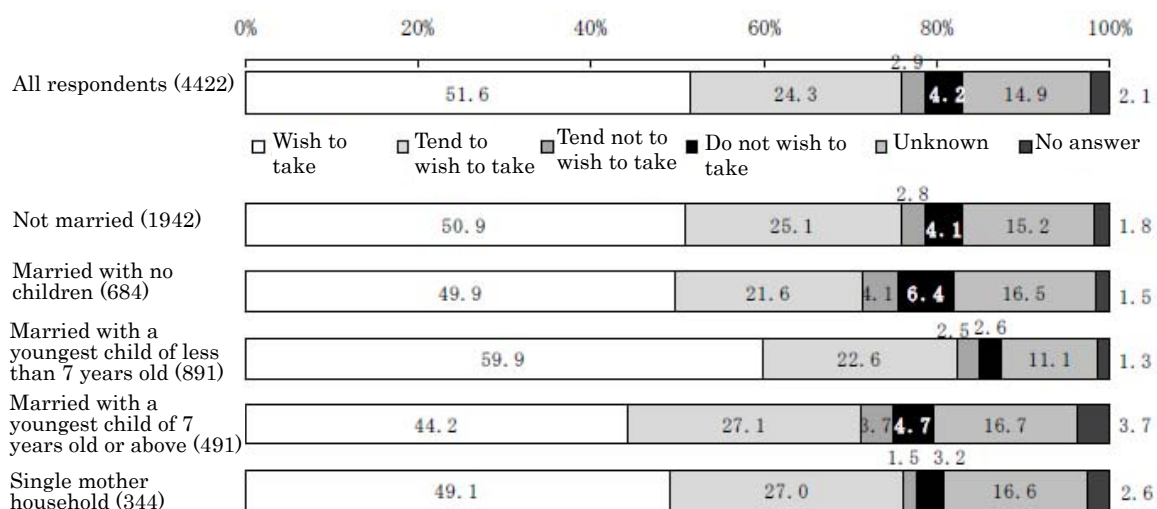
The result of the analysis of whether fixed-term contract employees who have experienced childbirth after April 2005 made it clear that employees who are continuously employed, such as those who are long-service persons, who have a contract for a long period (even though it is limited) or whose employment contract is renewed several times even though each period is short, have taken childcare leave. Also, childcare leave has been taken more often by the fixed-term contract employees who are working in the same manner as regular workers, such as those who are working at a relatively higher job level if compared to the "fixed-term contract workers for specific type of job" or to the general regular workers. About 40% of the employees who have taken childcare leave replied to the questionnaire that they would have resigned if they had not taken the leave. Therefore, the childcare leave seems to have promoted the continuous employment of fixed-term contract employees. There are some employees who have taken childcare leave since there are other fixed-term contract employees who had taken the leave in the same workplace. This suggests that once the precedence of fixed-term contract employees having taken childcare leave emerges, it may encourage other fixed-term contract employees to take the leave.

Chapter 5: Employees' wishes to take childcare leave and to be employed during the child-rearing period (on the basis of Employee Survey)

Many fixed-term contract employees wish to take childcare leave regardless of whether they are married or whether they have a child (see Figure 2). More employees who are covered by or qualified to the childcare leave system wish to be in employment during the period of their child rearing. Also, more employees engaged in a similar job to regular workers or work for as many hours as regular workers wish to continue to be employed during the period of their child rearing. However, with regard to the

employees working more than 30 hours a week, on the one hand, while there are many employees willing to be employed continuously by the company for which they are currently working, at the same time, many of them also have their wishes to move to another company that may provide a more favorable environment for their child-rearing. In order to promote the continuation of these workers' employment, it is important not only to establish the childcare leave system but also to provide them with systematic support for the work-life balance, such as reduction of working hours, nursing-care leave for children or other measures after the employees come back to work from leave.

Figure 2: Employees' wishes to take childcare leave, sorted by their life stage



Chapter 6: Business establishments' understanding status of employees' needs for supporting work-life-balance (on the basis of Business Establishment Survey)

In the business establishments that take measures to understand the needs for supporting work-life-balance of fixed-term contract employees, such as survey of employees' needs or labor-management consultation, there are more fixed-term contract employees who have actually taken childcare leave. More of such companies also have established other systems to support fixed-term contract employees, such as reduction of working hours. However, looking over all business establishments, there are few that take actions to understand the employees' needs. Labor-management communications concerning promotion of the equilibrium treatment between regular workers and fixed-term contract employees or concerning establishment of action plans under the Next Generation Law play an important role in providing business establishments with an opportunity to understand the employees' needs for supporting work-life balance.

Chapter 7: Required Conditions for childcare leave at business establishments and the leave actually taken by employees (on the basis of Business Establishment Survey)

About a half of the business establishments have childcare leave system in such a way as to cover more fixed-term contract employees than those provided under the law by relaxing the legal requirements. However, there are few business establishments where the requirements provided in their childcare leave system suit the reality of continuous employment of fixed-term contract employees. In order to enable the fixed-term contract employees whose employment is continued by repeated renewals of such contract to take childcare leave more smoothly, it is important to provide more favorable conditions in the system than those provided under the law, by easing the requirement that “the employee is expected to be employed continuously after the date when her child will reach his/her first anniversary” etc., taking into account the actual situation of fixed-term contract employees.

3. Outline of the survey on child and family care leave taken by fixed-term contract employees

(1) Coverage of the survey

Business Establishment Survey: 9,895 private business establishments throughout the country which employ 5 or more employees

Employee Survey: Female employees working in the above-mentioned business establishments with a fixed-term contract who are younger than 40 years old. A maximum of 10 employees were chosen in each business establishment. A total of 98,950 copies of the questionnaire were distributed.

(2) Method of distribution and collection of questionnaire

Business Establishment Survey: Questionnaires to the business establishments were distributed and collected via mail. Respondents filled out the questionnaire by themselves.

Employee Survey: Questionnaires were distributed to the employees chosen by the business establishments mentioned above and were collected via mail. The questionnaire was filled out by the respondents themselves.

(3) Period of the survey

Between July 19 and August 3, 2007

(4) Responses

Business Establishment Survey: 2,457 responses (Response rate was 25.1% excluding 94 responses from the business establishments which should not have been included.)

Employee Survey: 4,422 responses (Response rate was 4.5% against the number of distributed questionnaires of 98,950.)

Note: Results of the “survey by interviewing fixed-term contract employees about childcare leave” conducted prior to the present survey were published in “Report on interview survey - fixed-term contract employees and childcare leave” (JILPT Research Material Series No. 30 in 2007).