

Korean National Assembly Addresses Workplace Bullying and Harassment through Two New Measures

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On December 27, 2018 the Korean National Assembly addressed workplace bullying and harassment in partial amendments to the Labor Standards Act (the “LSA”) and the Industrial Accident Compensation Insurance Act.

LSA, Article 6-2, “Prohibition of Workplace Harassment”

This amendment to the LSA serves two main purposes: (1) creating new employer obligations; and (2) providing a definition of “workplace harassment,” a term previously left undefined under the law.

New employer obligations resemble those under the Equal Employment Opportunity and Work-Family Balance Assistance Act. They include:

- Prohibiting workplace harassment;
- Promptly conducting an investigation once an employer/business owner is notified or made aware of workplace harassment allegations;
- Protecting the victim through measures such as paid leave or changed workplace assignments/conditions;
- Soliciting the victim’s opinion about possible remedial measures taken to address the harasser’s conduct, followed by taking action such as disciplining the harasser or changing the harasser’s workplace;
- Refraining from any retaliation against either the victim or the individual who reported the harassment; and
- Specifying in Rules of Employment the process by which an individual can report workplace harassment and what steps must follow.

The amendment also defines workplace harassment for the first time under law as “an act of an employer (or business owner) or employee (or worker) that causes physical or mental suffering or worsens the working environment of another employee/worker by taking advantage of his/her status or relationship within the workplace beyond the appropriate scope of work.”

Regardless of the new obligations and definition, there are some limitations on consequences for offending employers. There are criminal punishments in the form of potential imprisonment for three years and a fine of up to KRW 30 million for employers that retaliate against an alleged victim during an investigation, there are no other punishments for violations. The employer’s obligations also do not extend to employees who are harassed by clients or customers and the employer is not obligated to provide its employees with any harassment training or prevention education. This being said, we always recommend global anti-harassment training for multi-national companies.

The new law will take effect on May 29, 2018. Sometime in the upcoming months the Ministry of Employment & Labor (“MOEL”) intends to publish a manual on the subject.

Industrial Accident Compensation Insurance Act

The National Assembly also passed a partial amendment to the above act, broadening the list of recognized workplace accidents to include ill-effects of work-related harassment. Specifically, the amendment adds the following to the definition of “occupational illness”: “illness caused by work-related mental distress due to harassment in the workplace, such as verbal abuse by customers/clients, etc.” The expansion is important as occupational illnesses may make a worker eligible for industrial accident compensation.

The outcome is that work-related mental distress, which may result from bullying or harassment, may now qualify as a work-related injury for purposes of workers’ compensation eligibility.

We will continue to keep you apprised of these legal developments.

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