



SAPA Expanded to Businesses with Fewer than 50 Employees from January 27, 2024

2024.01.22

The scope of the Serious Accident Punishment Act (the “SAPA”), which was enacted on January 26, 2021 and became effective on January 27, 2022 will be expanded to cover businesses with fewer than 50 employees from January 27, 2024. In effect, the SAPA will apply to businesses or workplaces with five or more employees, regardless of the nature or type of their businesses.

As there are concerns about the implementation of the SAPA to even small-sized companies, the government and the ruling party are pushing for an additional two-year grace period. However, consultations with the opposition parties are not going smoothly, and if there is no agreement on such extended grace period, then the SAPA will apply to all businesses with fewer than 50 employees from January 27, 2024, as per the current SAPA.

The SAPA imposes the duty to take safety and health measures required under the SAPA on Responsible Management Personnel (“RMP”) of the relevant businesses, which generally refers to the Representative Director of a company. Failure to fulfill such duty can result in criminal sanctions for the RMP if a serious accident occurs due to such failure. Recently, there have been coming out some court decisions on SAPA cases where the courts found RMPs guilty. While the courts have, in most such cases, imposed imprisonment with execution being suspended on the RMPs, in a case where serious accidents occurred repetitively, the court has imposed imprisonment of one year without suspension.

Accordingly, businesses with fewer than 50 employees must also prepare to fulfill their obligations under the SAPA. In particular, Article 4 of the SAPA stipulates that the company must:

- (i) Establish and implement a safety and health management system (workforce, budget, organization, etc.) necessary for accident prevention;
- (ii) Establish and implement a plan to prevent recurrence of serious accidents;
- (iii) Follow any applicable government improvement or corrective order in accordance with the relevant laws; and
- (iv) Take managerial measures to comply with applicable safety and health laws and regulations.

However, there is an issue for smaller businesses as companies with fewer than 50 employees typically do not have an expert in charge of employees’ safety and health. As such, it is not easy for such smaller companies to implement the above measures.

The Ministry of Employment and Labor issued the “Guide to Follow the SAPA” (https://www.moel.go.kr/news/notice/noticeView.do?bbs_seq=20220300855, provided only in Korean) on March 16, 2022 to provide guidance for businesses. However, practically, companies have found it difficult for even safety and health experts to perform the statutory obligations under the SAPA using only the Guide issued by the Ministry of Employment and Labor.

Furthermore, since the SAPA is a relatively new law without many established precedents, it is difficult even for companies with expertise in the Occupational Safety and Health Act to understand clearly what specific measures are required in order to fulfill their obligations under the SAPA. Therefore, to prepare for the matters related to the enforcement of the SAPA, it would be imperative to consult with legal professionals and experts in a timely manner.

Shin & Kim has provided various consulting services to businesses to effectively implement the SAPA. If your business has any concerns or difficulties in complying with the SAPA requirements, please contact us at any time.

[\[Korean version\]](#) 2024. 1. 27.부터 50인 미만 사업장에도 중대재해처벌법이 적용됩니다.

Key Contacts

Hyun Il Jin

Partner

+82-2-316-2897

hijin@shinkim.com

Jong Soo Kim

Partner

+82-2-316-1678

jsokim@shinkim.com

Anthony Chang

Senior Foreign Attorney

+82-2-316-4258

achang@shinkim.com