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Industrial Safety Amendments: Surcharges Up to 5% of Operating Profit and Expanded Work Suspension Rights

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On November 1, the National Assembly passed a bill partially amending the Occupational Safety and Health Act ("OSHA") (the "Amendment Bill"). The headline change is a new **administrative surcharge of up to 5% of an employer's average annual operating profit over the preceding three years if three or more workers die within a one-year period due to industrial accidents caused by violations of the safety and health obligations under the OSHA**.

Under the Amendment Bill, **the first one-year period starts on the effective date of the Amendment Bill.** An administrative surcharge of up to KRW 3 billion may be imposed instead, in accordance with a Presidential Decree, in any of the following cases: (i) the employer has no operating profit, (ii) the employer's operating profit is difficult to calculate, or (iii) the administrative surcharge calculated on the basis of operating profit is less than KRW 3 billion.

These provisions will take effect six months after promulgation.

Other key provisions of the Amendment Bill are outlined below.

- **Expanded Rights and Grounds for Work Suspension (Effective Six Months After Promulgation)**
  → Under the current law, a worker may exercise the right to demand work suspension "where imminent danger exists." The Amendment Bill relaxes this threshold to "where imminent danger exists or is likely to exist."
  The Amendment Bill also gives worker representatives and honorary industrial safety inspectors the right to demand work suspension in addition to workers. Further, subcontractors' workers are granted the right to demand work suspension directly from the principal contractor.
  The Minister of Employment and Labor will also have additional grounds to issue work suspension orders. Under the current law, the Minister may issue such an order after a serious industrial accident has occurred. Under the Amendment Bill, the Minister may also order the suspension of work where a worker injured in an accident is unconscious or it is unclear whether the worker is alive.
- **New Grounds for Requesting Cancellation or Revocation of Business Registration**

(Effective Six Months After Promulgation)

The Amendment Bill allows the Minister of Employment and Labor to request that the relevant administrative agency cancel or revoke an employer's business registration if: (i) two or more workers die at the same time in an industrial accident caused by a violation of safety or health obligations under the OSHA or other applicable laws; and (ii) the employer becomes subject to another request for business suspension after receiving two or more business suspension orders within a three-year period. The first three-year period starts on the effective date of the Amendment Bill.

- **Wider Duty to Budget for Occupational Safety and Health Management Expenses (Effective Six Months After Promulgation for Construction Businesses and One Year After Promulgation for Other Businesses)**

  At present, only owners of construction projects must budget for occupational safety and health management expenses. The Amendment Bill extends this duty to construction contractors and to businesses in other industries.

- **Establishment of an Occupational Safety and Health Committee (Effective Three Months After Promulgation)**

  The Ministry of Employment and Labor will establish an Occupational Safety and Health Committee to deliberate on key occupational safety and health policies, including basic plans for preventing industrial accidents. The committee will comprise up to 20 members and will be chaired by the Minister of Employment and Labor. Its members will include representatives of labor, management, and government, as well as occupational safety and health experts.

- **Heat Waves and Cold Waves Expressly Recognized as Grounds for Requesting Construction Period Extensions (Effective Upon Promulgation)**

  The Amendment Bill expressly provides that heat waves and cold waves are grounds for requesting an extension of a construction period.

- **Introduction of Rewards for Reporting Violations of the OSHA (Effective Three Months After Promulgation)**

  The Amendment Bill sets out a legal basis for paying rewards to anyone who reports a violation of the OSHA or an order issued under it.

The Amendment Bill substantially strengthens employers' obligations and accountability under Korea's occupational safety and health regime. The main changes are: (i) substantial administrative surcharges for serious industrial accidents, (ii) expanded rights to demand work suspension and grounds for work suspension, (iii) new grounds for requesting the deregistration of business, and (iv) a wider duty to budget for safety and health management expenses.

In light of these changes, employers should review their existing occupational safety and health management systems, strengthen internal procedures, and take proactive steps to prevent workplace accidents and reduce legal and operational risks.

Shin & Kim has extensive experience advising companies on occupational safety and health matters, including the implications of major legislative developments such as the enactment of the Serious Accidents Punishment Act. Our team provides legal advice and compliance consulting to businesses across industries and represents clients in investigations and criminal proceedings arising from industrial and serious accidents.

For further information on the Amendment Bill or assistance with related compliance and enforcement matters, please contact any of the professionals listed above.

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