

DR & AJU Weekly Legislative Report

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For the week of Dec. 20, 2021 – to Dec. 24, 2021

법무법인(유한) 대륙아주

As the first-ever Korean law firm to issue specialized legislative journals, DR & AJU LLC has been publishing the monthly *Policy & Business (P&B) Report* since August 2019. The *P&B Report* provides analyses of plenary sessions of the National Assembly, meetings of Standing Committees, and Subcommittee. In addition, the firm has been co-hosting the *Future Leaders Forum* with the Herald Business, inviting Chairpersons of Standing Committees to discuss relevant legislative issues and tasks.

As an extension to the service, DR & AJU has also been issuing the *Weekly Legislative Report* covering various legal issues at the center of public debate along with editorials and columns on the Serious Accidents Punishment Act ("SAPA") from major dailies. The report will be released with an update on newly proposed or pending Bills. Enclosed is this week's legislative report, and please refer to the *P&B Report* for further details.


If you wish to subscribe to the *P&B Report* or have any other queries, please contact us at pr@draju.com.


Executive Summary

Legislation Type	Keyword(s)	Name of Bill	Highlights
Proposed	ESG/ Corporate	① Partial Amendment to the Financial Investment Services and Capital Markets Act	This Amendment was designed to oblige listed corporations to publicly notify non-financial information, such as plans and contributions for responding to climate change, environmental problems, etc.
	Corporate	② Partial Amendment to the Special Act on the Safety of Children's Products	This Amendment mandates the Minister of the Ministry of Trade, Industry and Energy (MOTIE) to recommend or issue an order to a business to recall its children's products, report, or submit data when they cause harm to children. The MOTIE may conduct a site visit after the process is completed. In addition, when the business fails to comply with the recommendations and orders, the Minister shall notify the consumer of such fact.
Pending	Construction/ Real Estate	③ Partial Amendment to the National Finance Act	This Amendment raises the standard of the minimum total project cost for projects subject to the preliminary feasibility survey from KRW 50 billion to KRW 100 billion.
Promulgated	Corporate	④ Enforcement Decree of the Act on External Audit of Stock Companies	This Bill suspends the introduction of external audits of the internal accounting control system based on consolidated financial statements for one year.
Undergoing Pre-Announcement of Legislation/ Administration	IP/ Antitrust & Competition	⑤ Partial Amendment to the Enforcement Rule of the Act on the Promotion of Mutually Beneficial Cooperation Between Large Enterprises and Small and Medium Enterprises	This Amendment provides a legal basis for the assessment standard for penalty points to commissioning enterprises that have not executed non-disclosure agreements.

1. Proposed Bill(s)


*Please refer to the link at the bottom of each section for full text of the legislative bill or examination report.

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
1	 <p>Eui Dong YU (People Power Party)</p>	Partial Amendment to the Financial Investment Services and Capital Markets Act	<p>■ The world's largest asset management company declared last year that they would consider sustainability as the basis for making corporate investment decisions, emphasizing that the risks from climate change are long-term and structural crises.</p> <p>As such, when evaluating a company's management activities recently, Environment, Social and Governance (ESG), which are non-financial performance indicators considering environmental and social values and financial performance, is being emphasized as a major indicator of evaluating and investing in companies recently.</p> <p>In South Korea, the demand for ESG information is also gradually increasing, but the current law only stipulates the provision of information on the financial performance of companies, which is evaluated as an obstacle to investments considering ESG.</p> <p>Accordingly, the Amendment was designed to oblige listed corporations to publicly disclose non-financial information — plans and contributions for response to climate change, environmental problems, anti-corruption, work-family reconciliation, and low birth rate — in their business reports, currently centered on financial information (Subparagraphs (2)5 through (2)9 of Article 159 Newly Inserted).</p> <p>Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_S2V1C1P2S0P8A1I1G2R3B4C7V0N3A7</p>		Proposed on December 14, 2021

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
2	 Dong Man JEONG (People Power Party)	Partial Amendment to the Special Act on the Safety of Children's Products	<p>■ The current Act allows the Ministry of Trade, Industry and Energy (MOTIE) to recommend or issue an order to recall children's products to the businesses in cases where such products are assessed likely to cause harm to children's safety or health, or if risks thereof are confirmed. In addition, the Act also obliges such businesses to report to the Minister of the MOTIE when they recall their products after getting recommendations or orders.</p> <p>However, it is difficult to confirm whether the companies implemented the orders only with the report of the businesses. In addition, it is pointed out that consumers cannot easily access the information on the risks of children's products as the publication of the businesses' failure to comply with recommendations or orders is left to the discretion of the Minister of the MOTIE.</p> <p>Accordingly, if necessary to confirm the performance of the order, the Minister of the MOTIE may request the businesses' reports or submission of data, or have relevant public officials conduct a site visit and inspections. In cases where any businesses fail to comply with the recommendations and orders, the Minister shall notice such fact. In addition, the businesses receiving orders shall notify consumers the fact that they received orders and the result of measures by notifying them on their websites, etc. As such, this Amendment aims to secure the effectiveness of the implementation order and enshrine consumers' right to know in law (Articles 7, 9, 10, and 43).</p>		Proposed on December 15, 2021

Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_Y2A1D1Q1H0Q3J1N7D3B9J4V3X8R4I6

2. Pending Bill(s)

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
3	 <p>Sung Kook HONG (Democratic Party of Korea)</p>	Partial Amendment to the Personal Information Protection Act	<p>■ Under the current Act, the Minister of Economy and Finance conducts a preliminary feasibility survey on new projects with the total project cost of at least KRW 50 billion and state-funded assets of at least KRW 30 billion. However, since the preliminary feasibility study system was introduced in 1999, there has been no adjustment to the criteria for the total project cost selection for more than 20 years, so the cost for selection needs to be adjusted to the reality as it does not meet the growth of the national economy and financial scale.</p> <p>Accordingly, the Amendment intends to stimulate the economy to overcome the COVID-19 crisis and promote practical balanced national development by preferentially raising the criteria for the total project cost for projects fall under social overhead capitals (SOC), such as projects with a large business scale, including roads, rails, airports, ports, etc., to at least KRW 100 billion of the total project cost and at least KRW 50 billion of which is to be subsidized by the State (Article 38(1)).</p> <p>Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_Q2V0A0X6Q1Y2A1W0G1O9Z1Y6L9H4U0</p>	<p>https://view.asiae.co.kr/article/2021121215461730785</p>	<p>Proposed on June 12, 2020</p> <p>Presented Before Standing Committee/ Explanation of Proposal Given/Report on Examination Made/General Discussion Closed/ Tabled to Subcommittees on September 21, 2020</p> <p>Presented Before Subcommittee on September 22, 2020</p> <p>Presented Before Subcommittee on November 11, 2020</p>

3. Promulgated Bill(s)

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	DATE
4	Financial Services Commission	Enforcement Decree of the Act on External Audit of Stock Companies	<p>■ Grounds for Amendment & Main Content</p> <p>In order to reduce the burden on companies due to the prolonged COVID-19 disaster, the Bill suspends the business year to operate the business, including matters required to prepare and disclose the accounting information on the consolidated financial statements to the internal accounting control regulations. The Bill suspends the business year for one year from 2022 to 2023 for stock-listed corporations with the total assets of at least KRW 2 trillion, from 2023 to 2024 for stock-listed corporations with the total assets of more than KRW 500 billion and less than 2 trillion, and from 2024 to 2025 for other stock-listed corporations.</p> <p>Source (Korean): https://www.law.go.kr/법령/주식회사등의외부감사에관한법률시행령</p>	https://www.hankyung.com/finance/article/2021121472556	Enforced on December 21, 2021

4. Bill(s) Undergoing Pre-Announcement of Legislation/Administration

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Notice Period
5	Ministry of SMEs and Startups	Partial Amendment to the Enforcement Rule of the Act on the Promotion of Mutually Beneficial Cooperation Between Large Enterprises and Small and Medium Enterprises	<p>■ Grounds for Amendment</p> <p>The “Act on the Promotion of Mutually Beneficial Cooperation Between Large Enterprises and Small and Medium Enterprises” (Act No. 18431, amended on August 17, 2021, and enforced on February 18, 2022) was amended, strengthening technology protection for SMEs in transactions effected on consignment and commission by mandating execution of non-disclosure agreements. Accordingly, the Amendment was designed to stipulate matters delegated by the law and improve some imperfections in the operation of the existing system.</p> <p>■ Main Content</p> <p>I. Revision of the Criteria for Assessment of Penalty Points (Article 5-4 and [Table] Amended of the Act)</p> <p>i. The Amendment sets details for the implementation of assessing penalty points to commissioning enterprises that have not executed non-disclosure agreements under the newly inserted Article 21-2 and the amended Article 27(7) (Article 5-4).</p> <p>ii. The Amendment includes violations under Article 21-2(1) to the type of violations to which the violations of the attached Table of the Enforcement Rule of the Act.</p> <p>II. Expand the Scope of Documents to Be Kept (Article 11)</p> <p>i. Article 39 of the Act mandates the commissioning and commissioned enterprises or the small and medium enterprise cooperatives to keep documents on transactions effected on consignment and commission. As the Act mandates execution of a non-disclosure agreement with the insertion of Article 21-2, the non-disclosure agreements shall be added to the scope of documents that the commissioning and commissioned enterprises or the small and medium enterprise cooperatives shall keep.</p>		December 13, 2021 - January 24, 2022

Source (Korean): <https://opinion.lawmaking.go.kr/gcom/ogLmPp/66470?pageIndex=2>

Editorials and Columns on the Serious Accidents Punishment Act

[The Chosunilbo] The Serious Accidents Punishment Act Should Be Reconsidered

https://www.chosun.com/opinion/podium/2021/12/22/QEG2277NDBBNDBEMGAPPFAIGBM/?utm_source=naver&utm_medium=referral&utm_campaign=naver-news

SUMMARY The Federation of Korean Industries calculated the "entrepreneurship index," which evaluates corporate vitality, etc., and South Korea ranked 27th among 37 OECD countries. The issue that the corporate community is facing is the Serious Accidents Punishment Act, which will take effect in January next year. The Serious Accidents Punishment Act abstractly and vaguely stipulates the obligations of the management and exemption provisions are absent in cases where being without intention or gross negligence. Thus, there is controversy over the excessive legislation of the Act. It is evaluated that punishment based on severe punishment will not dramatically reduce industrial accidents but will put a burden on corporate management and industrial site management. The Serious Accidents Punishment Act, which shrinks the creative and innovative entrepreneurship required in the era of the fourth industrial revolution, should be reconsidered.

[The Korea Economic Daily] An Unusual Scene of Avoiding the Serious Accidents Punishment Act

<https://www.hankyung.com/opinion/article/2021121509351>

SUMMARY To avoid the risk of the Minister's criminal punishment following the enforcement of the Serious Accidents Punishment Act on January 27 of next year, the Ministry of Employment and Labor composed a specialized organization with three employees, and the National Tax Service also composed a response organization at its headquarters and local offices. The Ministry of Land, Infrastructure and Transport and the National Tax Service also plan to complete the organization before the Act comes into force. There will be no case where an organization was created in all government ministries due to only one law. Companies are agonizing over plans for 'backdoor management' with 'shadow warrior' to avoid unlimited liabilities in the private sector. The slang "OINK (Only in Korea) risk" was used among executives of foreign companies in Korea, and they seem to give up appointing the CEO of a Korean corporation. What the ruling and opposition parties need to put their heads together before the presidential election is not populism such as a 'supplementary extra budget of KRW 100 trillion,' but to look into the anxiety of the industrial sites, which is about a month away.

[The Chosunilbo] The Ministry of Justice Holding the 'Serious Accidents Investigation and Inspection Meeting' to Prepare for the Enforcement of the Act

https://biz.chosun.com/topics/law_firm/2021/12/22/CDFEVYPCBFD6BDDX2Y22JXAFT/?utm_source=naver&utm_medium=original&utm_campaign=biz

SUMMARY The 'Serious Accidents/Safety Accidents Investigation and Inspection Meeting' was held under the chairmanship of Beom Kye Park, the Minister of Justice, to inspect improvements in the investigation and trial process, focusing on investigations cases on serious accidents and safety accidents. The Meeting discussed the following matters: (i) safety management issues identified in the investigation process; (ii) necessary matters to take measures for the first investigation conducted from the perspective of sustaining prosecution; (iii) matters that need to be confirmed in preparation for the expected trial issues such as the safety duty and causal relations; (iv) improvements of the system to prevent accidents of the same type; and (v) establishment of an investigation model in preparation for the enforcement of the Serious Accidents Punishment Act.

[Maeil Business News Korea] After the Serious Accidents Punishment Takes Effect Next Year, How Would Deaths after Vaccination Be Regarded?

<https://www.mk.co.kr/news/society/view/2021/12/1194799/>

SUMMARY After the Serious Accidents Punishment Act takes effect, there is controversy in the legal community over whether the death after COVID-19 vaccination can be recognized as a 'serious public accident' under the Serious Accidents Punishment Act ("SAPA"). According to the legal community, it is widely expected that it is difficult to punish related persons and compensate for damages since side effects of vaccines cannot be regarded as caused by 'specific raw materials or product defects' pursuant to the exemptions under the Product Liability Act. To find the meaning of 'product defects,' it is necessary to refer to the Product Liability Act, a civil law, not the SAPA. The SAPA does not explain the meaning in detail.

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