

October 1, 2026

CRIMINAL PROCEDURE ACT AMENDMENTS: WHAT WILL CHANGE FOR LABOR OFFICE INVESTIGATION FRAMEWORK?

- Key Changes Under the New Labor Inspector Investigation Rules and Practical Implications for Companies

In Korea, labor inspectors at labor offices play a broader enforcement role than labor regulators in many other jurisdictions. In addition to conducting routine workplace inspections and overseeing compliance with labor and employment laws, labor inspectors, as special judicial police officers, are vested with special judicial police authority to investigate criminal violations of certain labor laws but have to date exercised this authority under the direction of prosecutors.

This investigative framework is set to change on October 2, 2026. On that date, Korea will abolish the existing prosecutors' offices and launch a new prosecution agency, the Public Prosecution Office, institutionally separating investigative and prosecutorial functions. Prosecutors will cease directing investigations conducted by labor inspectors, who exercise special judicial police authority to investigate labor-law offenses. In response, the Ministry of Employment and Labor (MOEL) is establishing new internal rules, the Labor Inspector Investigation Rules, governing labor inspectors' investigative procedures and MOEL's internal direction and supervision of investigations.

Under the new framework, labor offices will take the lead in labor-related criminal investigations without a prosecutor's direction, from identifying suspected offenses and determining potential suspects through questioning and referral of cases to prosecutors. MOEL's own internal supervision and review mechanisms will instead serve as the principal controls over those investigations. These changes are expected to have significant implications for how companies respond to labor office investigations.

I. KEY CHANGES TO THE LABOR OFFICE INVESTIGATION FRAMEWORK

With the launch of the Public Prosecution Office and the elimination of prosecutorial direction of investigations, labor office investigations will shift from a system of direction by prosecutors to one centered on MOEL's internal direction and oversight.

Category	Before October 2, 2026	On and After October 2, 2026
Investigative direction	Prosecutorial direction of investigations	Internal MOEL direction of investigations, principally by division heads and heads of local labor offices

Relationship with prosecutors	Prosecutorial direction	Mutual cooperation; prosecutorial guidance and advice
Referral of cases to prosecution	All cases referred to prosecutors' offices	All cases continue to be referred to the Public Prosecution Office; labor offices have no authority to close a case without referral
Further investigation after referral	Prosecutors may directly direct labor inspectors to conduct supplemental investigation	Prosecutors' direction of supplemental investigation by labor inspectors eliminated; prosecutors may request that the labor office conduct supplemental investigation
Internal controls within labor authorities	Internal approvals within the relevant local labor office, among other controls	Enhanced internal direction and review of investigations, plus an Investigation Review Committee to be established
External controls over labor authorities	Prosecutorial direction of investigations	Prosecutors' requests for supplemental investigation, corrective action and other measures

The practical impact of these institutional changes will become clearer as the new framework is implemented, but companies should nevertheless pay particular attention to the following developments.

1. Labor inspectors and MOEL's internal supervisory chain are expected to play a more influential role.

With prosecutorial direction eliminated, the proposed Labor Inspector Investigation Rules designate division heads and heads of local labor offices as the officials responsible for directing investigations. The rules also establish mechanisms for direct investigation of significant cases by regional labor offices and for statutory interpretation and investigative support by MOEL headquarters. As a result, the direction and outcome of an investigation may vary depending on which labor inspector or supervisory official within the local labor office, regional labor office, or MOEL headquarters is responsible for the case.

The new internal investigative framework will likely take time to become fully established. During the initial implementation period, investigative approaches and outcomes may vary depending on the experience and expertise of the assigned labor inspector and the level of direction and review at the relevant labor office.

2. MOEL's statutory interpretations and administrative positions may become more significant where the courts have not yet established clear standards.

As external prosecutorial direction of investigations is eliminated and the statutory-interpretation and investigative-support functions of MOEL headquarters and regional labor authorities are strengthened, MOEL's interpretations and administrative positions may play a more direct role in shaping investigative decisions on labor-law issues where judicial precedent remains unsettled or statutory interpretation is contested.

For example, under the amended Trade Union and Labor Relations Adjustment Act, the circumstances in which a principal company may be treated as an "employer" in relation to workers employed by a contractor remain an area in which detailed judicial standards have not yet fully developed. At the investigative stage concerning this issue, MOEL's interpretations and enforcement criteria may therefore assume greater importance. Depending on the circumstances, labor offices may also take a more proactive approach than in the past in opening criminal investigations on their own initiative or referring cases to prosecutors with a recommendation for prosecution.

3. The manner of prosecutors' involvement during investigations will change, while prosecutors' charging decisions will take on greater importance.

Article 245-10 of the amended Criminal Procedure Act replaces prosecutorial direction of labor inspectors with a framework under which prosecutors may provide guidance and advice. As a practical matter, a prosecutor may have limited ability to identify and proactively become involved in a particular case unless the labor inspector requests guidance or advice or otherwise provides case-related information.

The extent to which this guidance-and-advice mechanism will be used remains to be seen and will depend on how MOEL and the Public Prosecution Office develop their working relationship. In significant cases involving substantial legal issues, prosecutors may continue to play a meaningful role at the investigative stage through guidance and advice if advance consultation between the two bodies becomes common practice.

After a case is referred to the Public Prosecution Office, a prosecutor may request supplemental investigation under Article 197-2 of the Criminal Procedure Act. Although such request occurs after the labor office has already reached a preliminary investigative conclusion, active use of supplemental-investigation requests could allow prosecutors to require additional fact-finding or further analysis of legal issues, thereby providing an additional layer of review over the labor office investigation.

Once the labor office completes its investigation, prosecutors at the Public Prosecution Office will decide whether to bring charges based on the investigative record referred by the labor office. Their review of the labor office's factual findings and legal conclusions, and their ultimate charging decision, are therefore expected to remain important safeguards within the new framework.

II. PRACTICAL CONSIDERATIONS FOR COMPANIES

1. Engage proactively at the labor office from the outset of an investigation.

As labor inspectors exercise greater independent judgment and MOEL's internal investigative-supervision chain assumes a larger role, companies should organize the relevant facts and legal issues carefully and engage with the labor office even before a formal criminal case is opened.

In labor-related criminal matters, including serious workplace accident cases, senior executives such as the representative director may face potential criminal exposure. To date, labor offices have often sought advance prosecutorial direction before formally designating senior executives as criminal suspects. Going forward, labor offices will make that determination independently. Companies should therefore be prepared for the possibility that senior executives may increasingly be formally designated as suspects and investigated by labor offices, and should proactively prepare from the earliest stage for initial investigation, pre-investigation written submissions, and evidence-gathering measures such as searches and seizures.

2. Make use of opportunities to present the company's position to officials responsible for investigative supervision within MOEL.

The Labor Inspector Investigation Rules currently being developed establish an internal investigative-supervision structure under which division heads and heads of local labor offices may give specific direction on key investigative matters, with regional labor offices and MOEL headquarters able to become involved in significant cases.

Accordingly, it is expected to become increasingly important not only to present the company's factual and legal position to the assigned labor inspector, but also, where appropriate, to ensure that officials responsible for directing the investigation have an opportunity to consider that position. Particularly in significant matters, companies should consider appropriate avenues for presenting their factual record and legal arguments to the relevant officials during MOEL's internal investigative-supervision process, rather than limiting their advocacy to the assigned labor inspector.

3. Account for prosecutorial involvement and the ultimate charging decision.

Prosecutors at the Public Prosecution Office may become involved in the case by providing guidance and advice during an investigation, requesting supplemental investigation after referral, and ultimately deciding whether to bring charges. Because the extent of prosecutorial involvement will depend on how the new system operates in practice, companies should develop a stage-by-stage response strategy that addresses not only the labor office investigation but also potential prosecutorial review.

Where a labor office appears likely to refer a case to prosecutors with a recommendation for prosecution, the company should consider submitting its legal arguments and supporting materials before referral so that they become part of the investigative record available to the prosecutor, alongside the labor office's recommendation for prosecution. Depending on the nature and procedural posture of the case, the company should also consider whether and when to make submissions directly to the prosecutor during the guidance-and-advice process, in connection with any supplemental-investigation request, or before the charging decision.

4. Consider use of the Investigation Review Committee process.

Korean police investigations have long included procedures under which a committee composed of external experts may review whether an investigation has been conducted properly and lawfully. The Labor Inspector Investigation Rules currently being developed introduce a similar Investigation Review Committee process for labor office investigations. If a labor inspector's investigation is materially deficient in propriety or legality, a suspect, defense counsel, or another related party to the case may request committee review. The committee includes attorneys, academics, and experts in labor and occupational safety and health matters (Articles 68 and 69).

Although the committee's conclusions are not legally binding, the Investigation Review Committee provides a formal mechanism for obtaining independent expert review of the labor office's investigative approach. In significant cases that satisfy the eligibility requirements, companies should therefore consider whether seeking review by the Investigation Review Committee would be appropriate.

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Bae, Kim & Lee LLC's Labor and Employment Practice includes professionals with hands-on investigative experience at labor offices and the police. Drawing on that experience, together with deep expertise in labor and employment and criminal law, the team

regularly represents clients in a broad range of labor-related criminal matters. Its familiarity with investigative authorities' practices enables the team to identify key issues, assess the likely direction of an investigation, and develop response and advocacy strategies tailored to the particular matter.

Please contact us if you have any questions regarding labor office investigations or how companies should prepare for the changes to Korea's criminal justice framework described above.

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