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The newly introduced mandatory “Stress Check” for workers is worrying management in Japan

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In Japan today, many employers are trembling with fear at the thought of their employees' reaction to the newly-introduced Stress Check test.

Beginning in December 2015, all businesses in Japan will be required to offer an annual Stress Check test to their workers, including those from foreign countries, under the amended Industrial Safety and Health Act. This mandatory Stress Check test must be conducted by a physician or other qualified medical profession hired by the employer, and the employer may not access the result of each individual stress check test unless the affected employee agrees. However, the employer will be required to make efforts to improve the work environment based on an anonymous group analysis.

Furthermore, under the amended Act, at the request of any employee who scores high on the Stress Check test, the employer must have such employee interviewed by a physician, and implement any necessary actions for such employee, such as change of work location, change of job assignment, shortening of work hours, etc., according to the advice of the physician. Some employers are concerned that an employee having some disagreement with management could abuse the Stress Check test, such as intentionally misanswering questions to arbitrarily demand job reassignment or change of supervisor, backed by the above-mentioned advice of the physician. Employers would find it difficult to dismiss the physician's professional advice, in light of the risk that the employee may actually suffer from depression and might even commit suicide.

To give some context, in Japan there increasingly have been cases where employers are found liable to compensate their employees for depression or other mental disease caused or worsened by work-related reasons, and suicide committed due to such mental disease. These cases are among the biggest risks involved in employment in Japan, and could amount to as much as one million US dollars in each case.

In addition, nowadays under the slogan, "Health and Productivity Management," each employer's attitude and the measures it takes for the wellness of its employees are widely considered to be competitive resources of the business and are closely monitored by investors and business partners. If a company is seen as failing in this regard, it may receive the stigma of "Black Company" and would have difficulty in securing talented personnel in the future.

How to design and implement the Stress Check test while never letting go of the initiatives of personnel management, as well as minimizing any associated problems and maximizing the positive effect to the business, is an urgent priority for all employers in Japan. Consultation with a legal expert with extensive knowledge of HR management and occupational health from the initial stage is strongly advised. Please contact me at kenichi.kojima@ushijima-law.gr.jp.



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