

STRATEGIC COMPLIANCE INSIGHTS / 2026.10

Overview of the Amendment to the Whistleblower Protection Act and Preparation for Implementation**1. Introduction**

The Act Partially Amending the Whistleblower Protection Act (Act No. 62 of 2025, the “Amended Act”) was enacted on June 4, 2025, and promulgated on the 11th of the same month. It is scheduled to take effect on December 1, 2026.

As the effective date of the Amended Act is approaching, this article provides an overview of the principal amendments and summarizes key considerations for businesses preparing for the Act’s implementation. We hope you will find it useful as a reference.

2. Introduction of Criminal and Other Penalties for Business Operators that Violate the Obligation to Designate Engaged Persons

Business operators are required to designate persons assigned to the operations of receiving whistleblowing under the Whistleblower Protection Act, investigating the reportable facts relating to the whistleblowing, and taking the necessary corrective measures - that is, "persons engaged in the operations to respond to whistleblowing" ("Engaged Persons") (obligation to designate Engaged Persons under Article 11, paragraph (1) of the current Act.)¹

Previously, business operators that violated the obligation to designate Engaged Persons were only subject to advice, guidance, recommendations, or requests for reports. No criminal penalties were applied for failure to comply with the whistleblower protection measures.

The Amended Act will introduce the power to issue corrective orders where a business operator that is in violation of the statutory obligation to designate Engaged Persons fails to follow a recommendation², as well as criminal penalties for violating such a corrective order (Article 15-2, paragraph (2); Article 21, paragraph (2), item (i); and Article 23, paragraph (1), item (ii) of the Amended Act). The Amended Act also introduces authority to conduct on-site inspections of such business operators, together with criminal penalties for neglecting to report, making false reports, or refusing inspection, among other acts (Article 16; Article 21, paragraph (2), item (ii); and Article 23, paragraph (1), item (ii) of the Amended Act).

¹ Business operators that regularly employ 300 or fewer workers are subject to a best-efforts obligation in this regard, rather than a mandatory obligation. (Article 11, paragraph (3) of the current Act).

² Limited to business operators that regularly employ more than 300 workers.

Accordingly, a breach of the obligation to designate Engaged Persons has become a reportable fact that is subject to whistleblowing (Article 2, paragraph (3) of the Amended Act).

The Amended Act represents a tightening of regulation, in that it introduces criminal penalties and other sanctions for violations of the obligation to designate Engaged Persons. Note that the newly established criminal penalties also include a dual criminal liability provision, that is, a provision under which the corporation may itself be subject to punishment in addition to the individual offender.

We recommend that companies recognize that, in some cases, violations of the obligation to designate Engaged Persons may result in criminal penalties, and that they ensure, more thoroughly than ever, that there are no lapses in complying with this obligation³.

3. Clarification of the Obligation to Raise Awareness of the System for Responding to Whistleblowing

Business operators must establish the systems necessary to respond appropriately to whistleblowing and take other necessary measures (the obligation to establish systems, etc., Article 11, paragraph (2) of the current Act).

The existing Statutory Guidelines had included, as part of the obligation to establish systems, a requirement to publicize the internal whistleblowing response system to workers, etc., officers, and former employees; with the Amended Act, however, the obligation of business operators to publicize their whistleblowing system to workers, etc. has been expressly incorporated into the Act (Article 11, paragraph (2) of the Amended Act). Further, Part 4-3(3) of the amended Statutory Guidelines specifies the matters that business operators are to publicize and promote awareness of among workers, etc., officers, former employees, and specified persons (and former specified persons) engaged in entrusted business ("Freelancers")⁴.

We recommend that companies review the matters set out in the Statutory Guidelines and ensure that they take effective steps to publicize their internal whistleblowing response systems and raise awareness of them⁵.

³ Please also be aware that, under Part 3-2 of the Statutory Guidelines (the Guidelines Necessary for the Appropriate and Effective Implementation of the Measures To Be Taken by Enterprises Pursuant to Article 11, paragraphs (1) and (2) of the Whistleblower Protection Act (Cabinet Office Notification No. 118 of August 20, 2021)), when designating Engaged Persons, business operators are required to do so in a manner that makes clear to the persons who are to become Engaged Persons themselves not only that they will assume that status, but also that, as a result, they will be subject to the duty of confidentiality set forth in Article 12 of the Act and may become subject to the penal provisions set forth in Article 22 of the Act.

⁴ Under the Statutory Guidelines, business operators are required to publicize and promote awareness of the Whistleblower Protection Act as well as the matters set out below.

- a) Matters concerning the establishment of an internal whistleblowing hotline, together with its contact details and contact method;
- b) Details of measures to secure independence from the head of the organization and other executives;
- c) Details of measures relating to implementing whistleblowing response duties;
- d) Details of measures to eliminate conflicts of interest in whistleblowing response duties;
- e) Details of measures to prevent unfavorable treatment;
- f) Details of measures to prevent sharing outside the permitted scope, obstruction of whistleblowing, and attempts to identify the whistleblower;
- g) Details of measures related to notification of corrective actions, etc.;
- h) Details of measures relating to the retention of records, review and improvement, and disclosure of operational performance to workers, etc., freelancers, and officers; and
- i) Matters relating to cooperation with investigations into reportable facts related to whistleblowing.

⁵ Specific examples of the content and methods of such publicizing and awareness-raising efforts are set out in Part 3II3(3) (iii) of the "Commentaries on the Guidelines under the Whistleblower Protection Act (Cabinet Office Notification No. 118 of 2021)" (Amendment of the Commentaries on the Guidelines).

4. Expanding the Scope of Whistleblowers

This amendment extends the scope of persons protected as whistleblowers: Freelancers in an outsourcing relationship with the business operator ("specified persons engaged in entrusted business"⁶), former Freelancers whose relevant outsourcing relationship ended within the preceding year (Article 2, paragraph (1), items (iii) and (iv) of the Amended Act). It also prohibits terminating an outsourcing contract, reducing transaction volumes, suspending transactions, reducing compensation, or otherwise treating such persons unfavorably because of their whistleblowing (Article 5 of the Amended Act).

As noted above, Freelancers and former Freelancers have also been added to the scope of persons to whom business operators must publicize and raise awareness of their whistleblowing response systems.

We recommend that companies revise their internal regulations relating to the internal whistleblowing system, among other measures, to add Freelancers and others to the scope of persons eligible to report. Companies should also take effective steps to publicize and raise awareness of their internal whistleblowing response systems⁷ among these persons.

5. New Provisions Addressing Factors That Discourage Whistleblowing

The amendment introduces two new provisions aimed at preventing conduct that discourages or obstructs whistleblowing to the Act.

First, the Amended Act now prohibits business operators from obstructing whistleblowing - for instance, by asking workers, etc. to agree, without justifiable grounds, not to report wrongdoing - and provides that any such agreement or other legal act made in violation of this prohibition is void (prohibition of obstructing whistleblowing, etc., Article 11-2 of the Amended Act). Examples of obstruction include requiring a worker who has discovered internal wrongdoing to sign a pledge not to report it, with the aim of concealing the misconduct, or agreeing to pay severance on condition that a departing worker does not report wrongdoing discovered in the course of their employment to the internal whistleblowing hotline or the relevant government authority⁸.

Second, the Amended Act now prohibits business operators, without justifiable grounds, from taking any action aimed at identifying a whistleblower (prohibition of searching for whistleblowers, Article 11-3 of the Amended Act). Previously, measures to prevent attempts to identify whistleblowers were required as part of the obligation to establish a reporting system; the amendment now expressly provides for this prohibition in the Act itself as a matter of civil law. Examples of attempts to identify a include asking a

⁶ See Article 2, paragraph (2) of the Act on Ensuring Proper Transactions Involving Specified Entrusted Business Operators.

⁷ As methods of publicizing and raising awareness among Freelancers, one may consider indicating the contact details, etc. of the whistleblowing hotline in documents or emails relating to the outsourcing contract, or on an intranet or similar platform that such persons regularly access; and for former Freelancers, one may consider publicizing and raising awareness, during the business entrustment period, that whistleblowing remains available even after the outsourcing contract has ended (see Part 3II3(3)(iii) of the aforementioned Commentaries on the Guidelines).

⁸ The "justifiable grounds" that would excuse an act of obstructing the filing of a report are understood to be narrow in scope. One likely example would be a business operator asking a worker, in writing or verbally, not to report to the media, business partners, or others, based on nothing more than bare suspicion with no real grounds (see Q30, p. 35 of the "Whistleblower Protection System Q&A").

person suspected of having made a report whether they did so, or checking employees' devices or server data to identify the whistleblower.⁹

The Statutory Guidelines have also been revised to require business operators to prevent workers and officers, etc. from both attempting to identify whistleblowers and obstructing whistleblowing (Statutory Guidelines, Part 4-2(2)(a)-(b)).

We recommend that companies take steps to prevent workers and officers, etc. from (i) obstructing whistleblowing, or (ii) attempting to identify a whistleblower - for example, by expressly stating in their internal rules, and raising awareness¹⁰ that such conduct is prohibited without justifiable grounds and may result in disciplinary action or other measures.

6. Shift of the Burden of Proof for Dismissals and Disciplinary Action Following Whistleblowing

Under the current Act, a dismissal because a worker made a report that meets the requirements for whistleblower protection is void (Article 3 of the current Act). However, as the Act is silent on who bears the burden of proof, it has generally been understood that, in civil litigation and other proceedings, the dismissed worker must prove that they were dismissed because of the report.

Not only dismissals but also disciplinary action taken on the grounds of a whistleblowing report satisfying the requirements for protection are now void under this amendment (Article 3, paragraph (2) of the Amended Act). Also, any dismissal or disciplinary action taken within one year of the report is presumed to have been made because of the report (Article 3, paragraph (3) of the Amended Act). In other words, where a whistleblower is dismissed or disciplined within one year of making a report, it will now fall to the company, in civil litigation and other proceedings, of proving that the dismissal or disciplinary action was taken for reasons unrelated to the report.

To help demonstrate that a dismissal or disciplinary action is unrelated to whistleblowing, we recommend that companies make sure that whistleblowing-related information, such as matters that could identify a whistleblower, is never passed along to the department handling the dismissal or disciplinary action. If the company subsequently learns, – for example, through the person's own disclosure or otherwise - that someone being dismissed or disciplined is in fact a whistleblower within the one-year window, companies should gather and retain sufficient evidence to demonstrate that the dismissal or disciplinary action was taken for reasons unrelated to the report.

7. New Criminal Penalties for Dismissal or Disciplinary Action Due to Whistleblowing

This amendment introduces criminal penalties for anyone who dismisses or disciplines someone because of whistleblowing (including a dual criminal liability provision that makes corporations themselves

⁹ Here too, the "justifiable grounds" that would excuse searching for a whistleblower are understood to be narrow in scope. One example might be where, in the case of an anonymous report, a necessary investigation or corrective action cannot be carried out without first pinning down the specific circumstances under which the whistleblower became aware of the wrongdoing. In such a case, an Engaged Person bound by the confidentiality obligation under Article 12 may be justified in asking questions, in the course of responding to the report, that might help identify the whistleblower (see Q34, p. 36 of the aforementioned Q&A).

¹⁰ See Part 3II2(2)(iii) of the aforementioned Commentaries on Guidelines

potentially subject to punishment¹¹) (Article 21, paragraph (1); Article 23, paragraph (1), item (i) of the Amended Act). It also prohibits unfavorable treatment of regular-service national public employees, etc. because of whistleblowing, and introduces criminal penalties for anyone who, in violation of this prohibition, removes such an employee from office on the grounds of unsuitability or imposes disciplinary action on them (Article 9; Article 3, paragraph (1); Article 21, paragraph (1) of the Amended Act).

Where a dismissal or disciplinary action is taken because of whistleblowing, the person who effectively made the decision may be subject to punishment. Specifically, this may include not only the representative director or another person named in internal approval documents, but, more broadly, anyone who set the direction of the dismissal or disciplinary action and was actually involved in making that decision. Depending on their actual involvement, the employee in the relevant business division who drafted the proposal for the dismissal or disciplinary action, or the head of the HR department, could fall within this scope¹².

We recommend that companies bear in mind that anyone who dismisses or disciplines someone on grounds of whistleblowing may now face criminal penalties, and that, in such case, the company itself could be subject to a substantial fine as a result. Companies should therefore take particular care to prevent unfavourable treatment because of whistleblowing, including dismissal or disciplinary action.

8. Conclusion

This article covers the outline of the Act Partially Amending the Whistleblower Protection Act, set to take effect on December 1, 2026, and highlights key considerations for companies preparing to comply with the Amended Act.

We hope that this article proves useful to you in preparing your company's response to the amendment of the Whistleblower Protection Act.

¹¹ While the penalty for an individual who dismisses or disciplines someone on grounds of whistleblowing is imprisonment of up to six months or a fine of up to JPY 300,000, the penalty for a corporation is a fine of up to JPY 30 million.

¹² See Q13, p. 80 of the aforementioned Q&A

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