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Suspension Compensation Benefits during Work-Related Injury or Sickness Periods

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A company is obliged by Article 76 of the Employment Standards Act to compensate its employees for at least 60 % of their salary when they are unable to work due to work-related injuries or sickness. However, the company is exempt from such compensation obligation as long as the employees receive some insurance benefits (suspension compensation benefits) from the Government (Article 84 of the Employment Standards Act). Suspension compensation (i.e., 60 % of the salary amount) is given to employees on the fourth day they are unable to work and thereafter (Article 14 of the Workers Accident Compensation Insurance Act).

In contrast to the case above, no company is obliged to compensate its employees for their lost salary when they are unable to work because they are injured or become ill on their way to and from their workplace. However, the Government is under an obligation to give the injured or sick employees 60 % of their salary on the fourth day they are unable to work and thereafter, as suspension compensation (Article 22-2 of the Workers Accident Compensation Insurance Act).

So, with respect to an injury or sickness related to work, a company does not have to compensate its employees for their salary from the fourth day and thereafter, but does have to compensate them for lost salary for the first three days. Concerning injuries or sickness incurred by employees on their way to and from the workplace, however, a company does not have to compensate the employees for lost salary for the first three days or thereafter.

業務上の傷病に起因して休業した場合、労働基準法によれば、平均賃金の 60%以上を会社は休業補償として従業員に支払わなければなりません。もっとも、国(労働者災害補償保険)から「休業補償給付」が出る場合には、その限度で会社は支払の責任を免れます。かかる国の給付は、通常、休業開始後 4 日目からおこなわれます。

これに対して、通勤途上の災害に起因する傷病が原因で休業した場合、休業補償を行う法律上の義務は会社には必ずしもありません。もっとも、国(労働者災害補償保険)から「休業給付」が出ます。かかる国の給付は、通常、休業開始後 4 日目からおこなわれます。

以上からわかることは、業務上の傷病に基づく休業の場合、会社は最初の 3 日間については、休業補償を行わなければなりません。他方、通勤災害に基づく休業の場合、会社は最初の 3 日間についてすら、休業補償を行う義務は課されていないこととなります。

Should you wish to receive further information as to the above-mentioned, and/or how your company is in compliance with labor/employment law, please contact your regular attorney or Hideki Thurgood Kano (e-mail: hidekithurgood.kano@andersonmori.com, tel: 81-3-6888-1061).