

ELECTION, DUTIES OF THE MANDATORY EMPLOYEE REPRESENTATIVE AND THE EMPLOYER'S LIABILITIES

According to Article 3 of the Occupational Health and Safety Law number 6331, the **“Employee Representative”** is the **employee authorized to represent the employees** as regards the participation in works related to occupational health and safety, monitoring the works, requesting the taking of measures, suggesting proposals, and similar subjects. The aim of the employee representative application is to ensure the continuation of activities related to occupational health and safety at the workplace as well as the efficiency of participation and balanced representation in the workplace environment.

-Determination of the Representative

The employee representative acts as a bridge between the employees and the employer at the workplaces. The representatives, who shall perform this quite significant duty, **shall be determined by election from among the employees in case there isn't any authorized union** at the workplace (in case there are union representatives, they shall be commissioned as employee representative). In this case, the employer shall allow for the realization of the applications, provided that this time granted shall not be less than seven days, and this period shall be announced at the workplace. Employees, who are at least junior high school graduates, who have a work experience of 3 years and are employed on a full-time basis, may become candidates. The candidate or candidates who have reached plurality, shall be announced as representative(s). In case there isn't any employee representative candidate in the company, the employer shall commission a sufficient number of employee representatives **by assignment**.

The number of employee representative(s) to be commissioned at the workplaces shall be determined as follows:

- a) one for workplaces with two to fifty employees.
- b) two for workplaces with fifty-one to one hundred employees.
- c) three for workplaces with one hundred and one to five hundred employees.
- d) four for workplaces with five hundred and one to one thousand employees.
- e) five for workplaces with one thousand and one to two thousand employees.
- f) six for workplaces with two thousand and one and more employees.

-Authority and Liability of the Employee Representative

The employee representative shall be authorized to represent the employees as regards the participation in works related to occupational health and safety, monitoring the works, requesting the taking of measures for the elimination of the source of danger or minimisation of the risk resulting from the danger, suggesting proposals, and similar subjects. The employee representative's rights may not be restricted due to his/her performing his/her duty. The employee representative shall be liable to keep confidential the employer's or workplace's professional secrets as well as the matters he/she has seen and/or got to know as a matter of course, and any private information of the employees.

-Liabilities of the Employer

The employer shall commission a sufficient number of employee representatives, provided that attention is paid to a balanced distribution by observing the risks and number of employees at the workplace, either **by election to be held from among the employees or, if they cannot be determined by election, by assignment**. The employer shall provide the **necessary facilities** to enable the employee representative to fulfill his/her duties. In case there is an authorized union available in the workplace, the employer shall

commission the union representative as employee representative. **All tasks and transactions necessary related** to the

election or assignment of the employee representative **shall be fulfilled by the employer**. The employer shall **announce at the workplace** the employee representatives, who are commissioned by election or assignment.

Employers should know that they shall be subject to penal sanctions if they fail to fulfill these liabilities or to commission any employee representative. *Please contact our law and consulting firm for further information on the election process of the mandatory employee representative and the employer's responsibilities.*

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