

Non-Payment of Overtime Wages

Q: I am an intern who will be returning to my home country very soon. I worked with virtually no time off, and the overtime pay was an additional 300 yen per hour in the first year, 350 yen per hour in the second year, and 400 yen per hour in the third year, and I received 200 yen per hour for work I did in my dorm after 11 p.m. I spoke to the president of the accepting company and an interpreter at a supervisory body about receiving the unpaid portion of my wages, but I was ignored. I would like to receive the unpaid portion before I go home. What should I do?

A: Gather supporting documentation such as a copy of your employment agreement, your pay statements, and copies of time cards or records of work hours and promptly submit an application to the Labor Standards Inspection Office with jurisdiction.

Q: What are the roles of the Labor Standards Inspection Office?

A: The Labor Standards Inspection Office is a front-line organization of the Ministry of Health, Labour and Welfare and has 321 offices nationwide. Internal organizations of the Labor Standards Inspection Office include the Supervision Division, which accepts various types of applications and offers consultations, relating to the Labor Standards Act and other laws and regulations and performs supervision and guidance, and the Industrial Accident Division, which addresses work-related injuries and illnesses.

Q: If I would like to consult regarding unpaid overtime wages for overtime work, should I apply to the Supervision Division?

A: The main jobs of the Supervision Division are accepting applications for consultations on matters relating to statutory labor standards and those seeking administrative guidance concerning violations by employers of the Labor Standards Act and other laws and regulations.

After that, on-site inspections of the work place (plant, office, etc.) are performed and records and so on are examined periodically or when an application is received from a worker to confirm the working conditions of workers. If any violations are found, the employer will be directed to take corrective action.

If an employer does not take corrective action even after multiple instructions to do so, in cases of severe or malicious incidents, a voluntary investigation, search or seizure, or compulsory investigation including arrest for violation of the Labor Standards Act may be performed and the matter may be submitted to the prosecutor's office.

Q: What are the main provisions of the Labor Standards Act?

A: Employers and others are obligated to perform the following matters.

- (1) Clear indication of working conditions
When an employee is hired, it is necessary to provide a written statement of wages, working hours, and other matters specified by law.
- (2) Working hours and days off
Statutory working hours are eight hours per day, 40 hours per week. Statutory days off are one day per week or four days per four weeks.
- (3) Overtime work and work on days off
When an employee is required to work overtime or on a day off, it is necessary to provide notice of the maximum working hours to the Labor Standards Inspection Office with Jurisdiction over the area where the worksite is located.
In addition, when an employee is required to work overtime on a day off, it is necessary to pay overtime wages.
- (4) Dismissal
When a worker is dismissed, it is necessary to provide at least 30 days' prior notice or if notice is not provided, to provide at least 30 days' average wages.
- (5) Minimum wage
For a worker to whom the minimum wage applies, it is necessary to pay at least the regional minimum wage specified by the local prefecture.
- (6) Medical examination
It is necessary for employees to undergo periodic medical examinations with regard to matters specified by law at the time of hiring and once annually thereafter.

Q: I do not have an employment contract. Is that a violation of the law?

A: Article 15, Paragraph 1 of the Labor Standards Act provides, "When executing a labor agreement, the employer must indicate wages, working hours, and other working conditions to the worker." The matters that must be specified as indicated in Article 5, Paragraph 1 of the Labor Standards Enforcement Ordinance include:

- (1) Matters relating to the term of the labor agreement;
- (2) Matters relating to standards for the renewal of fixed-term labor contracts;
- (3) Matters relating to the worksite and the work to be performed;
- (4) Matters concerning work start and end times, whether work is to be performed in excess of prescribed working hours, break periods, days off, leave, and the change in shifts in cases where workers work in two or more shifts;

- (5) Matters relating to methods of determination, calculation, and payment of wages (excluding retirement allowances and wages paid in special circumstances), cutoff dates for wage calculation and payment of wages, and increases in wages;
- (6) Matters relating to separation (including grounds for dismissal);
- (7) Matters relating to the scope of employees eligible for retirement allowances, determination, calculation, and payment of retirement allowances, and timing of payment of retirement allowances;
- (8) Matters relating to wages paid in special circumstances (excluding retirement allowances), bonuses, wages paid in special circumstances, and minimum wages
- (9) Matters relating to meal expenses and supplies for work to be borne by workers and other related matters;
- (10) Matters relating to safety and health;
- (11) Matters relating to vocational training;
- (12) Matters relating to accident compensation and support for injury and illness outside the course of employment;
- (13) Matters relating to commendation and discipline; and
- (14) Matters relating to leave;

Of these matters, those specified in (1) to (6) (excluding matters relating to raises specified in (5)) must be indicated in writing.

Q: Can I consult with the Labor Standards Inspection Office even if I can't speak Japanese?

A: The Supervision Divisions of the prefectural Labour Standards Bureaus or Labor Standards Inspection Office indicated below have Foreign Worker Consultation Desks and offer consultations regarding labor conditions in foreign languages. Contact each office for days and hours of availability.

Labor Standards Inspection Offices that do not have a Foreign Worker Consultation Desk also offer consultations regarding working conditions, but please visit the office with someone who is able to interpret if possible.

Offices with Foreign Worker Consultation Desks

http://www.mhlw.go.jp/new-info/kobetu/roudou/gyousei/kantoku/dl/040330-6_0004.pdf#search='%E5%8A%84%E5%9F%8A%E7%80%82+%E7%94%83%E5%91%8A+%E5%A4%96%E5%9B%BD%E8%AA%9E