

## **Guiding Principles for Workers' Working Hours Outside the Workplace**

- I. In recent years, due to changes in industries and the increasing complexity and diversity of economic activities, the number of types of work performed by workers outside of business establishments has been increasing, in forms different from the traditional or fixed type of labor provided in employer's facilities or designated places of work. In order to provide a reference for the recognition of "working hours" and the recording of "attendance records" for workers working outside the designated premises of employment and to protect their labor rights and interests, this guideline has been formulated.
- II. The following items should be noted for the recognition of working hours and the recording of attendance records for workers engaged in work outside the business premises.
  - (I) With respect to the start and end time of normal work, recognition of extended working hours (overtime), rest periods and shift changes, both the employer and the employee shall agree in a written labor contract and set forth in the working rules.
  - (II) Working hours (normal working hours and extended working hours) refer to the time during which workers provide labor services under the direction and supervision of the employer or are instructed to wait for the provision of labor. However, if a worker is on a business trip or otherwise engaged in work outside of the workplace which renders it difficult to calculate working hours, the normal working hours of the day shall be based on the agreed starting time and ending time stipulated in the labor contract; extended working hours (overtime) shall be calculated on the basis of the actual time from which the labor is provided.
  - (III) Rest time refers to the free time when a worker is being released from the employer's direction and supervision. When a worker works outside of the usual workplace in accordance with the contract, the employer shall still provide the worker with rest time in accordance with Article 35 of the Labor Standards Act. Unless the employer requests the worker to continue

working during the rest time or the worker provides proof that he/she is working during the rest time at the request of the employer, the rest time shall not be considered as working time.

- (IV) Workers who work outside the business premises shall perform their labor services within the agreed upon normal working hours, and the employer shall record the normal working hours of the workers on a daily basis. However, in the event that a worker is required to work longer hours, the employer shall record the starting time of the work assigned. If a worker performs the assigned work at the end of the normal working hours and the employer deems that the work can only be completed by continuing the work, the employer shall cause the worker to extend his/her working hours. After completing the work, the worker shall report to the employer in the manner agreed upon between the employer and the employee and the employer shall keep records of the reported extended working hours.
- (V) When the nature of the work is special and consistently requires the worker to perform work outside of the business premises and beyond normal working hours, the employer and the employee may agree in advance to waive the reporting of extended working hours within a certain limit upon the consent of the employer. After completion of the work, the employer shall record the actual number of reported extended working hours the worker has performed.
- (VI) Recording methods of working hours outside of the business premises are not limited to the attendance book or attendance card (punch card) of the business, but can be supplemented by computer information or electronic communication equipment to assist in recordkeeping, such as: driving recorders (dash cam), GPS recorders, telephone, attendance records on mobile devices, online reporting, customer slips, communication software or other tools for auditing attendance records which should be submitted in writing when under labor inspection.
- (VII) After the worker's normal working hours are over, should the employer use communication software, telephone or other methods to instruct the worker to continue work, the worker can record the start and end time of

the work by himself/herself and send it to the employer with a dialogue, communication record or record of work completion. The employer should promptly record the reported working hours.

III. Workers who are frequently engaged in work outside the business premises should pay attention to the following matters:

(I) News media workers:

1. Due to the special nature of work in the news media industry, workers often work outside the business premises or do not need to return to the business premises to sign out of work. Therefore, it is often difficult for employers to identify working hours and record their attendance. Regarding the start and end of normal working hours and extended working hours (overtime work) of a normal working day, the handling and identification methods should be agreed upon in a written labor contract and set forth in working rules.
2. News media workers often receive requests from employers to extend working hours for content processing after normal working hours due to unexpected news events. Subsequent extended working hours should be recorded in various forms, such as news manuscript records and driving records or a record made by the worker himself/herself, supplemented by communication software, mobile device records, dialogue or other means to report to the employer, who shall promptly record it.
3. The employer and the employee shall agree to extend the working hours of the worker without prior consent from the employer. After completing the work, the worker shall deliver the record of the start and end time of the work to the employer and the employer shall record the actual number of hours of the extended working time reported by the worker.

(II) Teleworkers

1. The teleworker referred to in this guideline refers to the type of labor contract performed by the worker using computer information

technology or electronic communication equipment outside the business premises under the direction and supervision of the employer.

2. The allocation of working hours for teleworkers shall be agreed upon and performed by both the employer and the employee in accordance with the labor contract. Also, the nature of telework entails a high degree of autonomy and it is easier for teleworkers to freely allocate working hours and rest time. The actual attendance situation and exact rest time should be recorded by the workers themselves (such as work logs, etc.), and then transmitted to the employer through electronic means (such as online log-in systems) for recordkeeping.
3. Since most of the teleworkers' workplaces are not in the employer's business premises, it is difficult for the employer to control the extended working hours of the workers or to express opposition to them. The extension of working hours should therefore be done by prior application or agreement.

### (III) Field salesperson

1. Field salespersons may only spend part of their time in a fixed business location or frequently work outside and their main working hours often need to match the time of the customer, such as insurance salespersons, real estate agency brokers, etc. In practice, it is difficult for employers to identify working hours and record their attendance. Regarding the start and end of a day's normal working hours, extension of working hours (overtime) and determination methods, it shall be agreed in a written labor contract and set forth in the working rules.
2. The recording method of attendance is not limited to the sign-in book or attendance card (punch card) of the business, but can be supplemented by other record documents or information files that can provide proof of labor performed. After the worker has extended his working hours, he/she can record the start and end time through

computer, telephone, dialogue, communication software or other methods, and then inform the employer, who shall promptly record it.

3. When a field salesperson receives a request from the employer to extend working hours after normal working hours, he/she shall report the end of working time to the employer after completing the work and the employer shall record the starting and ending time of the work assigned. If a field salesperson receives a request for service from a customer after normal working hours, he/she shall report back to the employer and obtain the employer's consent and then report the starting and ending time to the employer after the work is completed.

#### (IV) Commercial Drivers

1. The working hours of commercial drivers, including drivers of passenger vehicles, trucks and chauffeurs for company executives, shall be based on the actual working hours, including warm-up time, driving time, ticket/toll checking time, waiting time, car washing time, refueling time, maintenance time, standby time, loading and unloading time or other time engaged in related work under the direction and supervision of the employer.
2. The time that the driver is not under the direction and supervision of the employer and is free to use is considered rest time.
3. If the customer requests additional trips, the driver shall report to and obtain the employer's consent. After completing the work, the driver shall report back to the employer in the manner agreed between the employer and the worker and the employer shall keep a record of the extended working hours of the worker.
4. The working hours and rest periods of drivers are different from those of ordinary workers with fixed working hours because of the different lengths of driving routes and the great differences between normal and peak traffic conditions. In accordance with the proviso of Article 35 of the Labor Standards Act, "continuous" work has the

characteristic of being uninterruptable once the work is performed. If an enterprise complies with the aforementioned proviso, it may allocate additional rest time within the working hours of the workers, and the rest time should be at least 30 minutes at a time. The employer's decision on whether or not to grant rest time to workers in accordance with Article 35 of the Labor Standards Law shall be determined by information such as labor contracts, work rules and regulations, work schedules or discussions with workers.

5. With regards to the waiting time where driving activities are not involved as well as the consideration of whether or not this is deemed working time and its calculations, it should first be clarified whether or not this period of inactivity is under the direction and supervision of the employer and whether or not it can be used freely. For example, after a tourist bus drives tourists to a certain scenic spot, tourists may disembark from the bus for two hours. During the two-hour period, for drivers who can utilize the vehicle for their own use, it shall not be deemed as working time. If, for example, some tourists choose to stay on the tour bus, then the driver cannot make free use of the vehicle during this period, which then should be considered as working time.
6. The record of the working hours of car driving can be supported by the use of driving recorders (dash cams), GPS records and driving slips (dispatch order), as well as a copy of the customer's signed receipt. The supervisor in charge of the car shall also be obliged to record the driving working hours or to put into record the working hours reported.

(V) For other workers who frequently work out of the business premises, the recognition and recording of out-of-premises working hours may be handled in accordance with this guideline.

- IV. The labor conditions agreed upon by the employer and the employee in accordance with these guidelines shall not contravene the relevant provisions of the Labor Standards Act.