

Ordinary Wages and Average Wages

I. Ordinary wages

1. Definition

According to Article 6(1) of the Enforcement Decree of the Labor Standards Act, the term “ordinary wages” means hourly wages, daily wages, weekly wages, monthly wages, or subcontract wages determined to be paid in periodical or lump sums to the worker for a prescribed or whole labor. That is, “ordinary wages” mean the wages determined to be paid periodically and uniformly within a wage-calculation period, regardless of the number of actual work provision or the amount received as the remuneration for quality or quantity of labor. Additional wages under the Labor Standards Act shall be 150%, calculated by adding 50% of ordinary wage according to Article 56(1) of the Labor Standard Act.

2. Reasons for Calculating Ordinary Wages

When calculating ordinary wages, the hourly wage rate is applied in principle. Ordinary wages apply in the case of ① dismissal allowances replacing advance notices of dismissal, ② wages added for overtime, night or off-day work, ③ ordinary wages stipulated in the Rules of Employment to calculate annual paid leave, ④ menstrual allowance, and in cases where the paid is under ‘paid allowance’ not under average wage according to the Labor Standards Act.

3. Legal criteria for determining ordinary wages (Construction of Supreme Court)

(1) Ordinary wages mean wages that an employer pays to an employee as remuneration for his/her prescribed work or whole work, and those which are paid regularly and uniformly are considered ordinary wages in principle. In consideration of the purpose for legislating the Labor Standards Act and the function and necessity of ordinary wages, what should be included as ordinary wages shall be fixed wages paid regularly and uniformly, meaning non-fixed wages are not ordinary wages, as they are not paid regularly and uniformly and may or may not be paid, or the amount paid is according to actual work performance. Here, being paid ‘uniformly’ not only means payment is made to all employees, but also to all employees qualified according to certain conditions or criteria. Here, ‘certain criteria’ means ‘fixed conditions’ in considering the concept of ordinary wages that is designed to calculate ‘fixed and generally accepted regular wage.’

(2) Even though a particular allowance or bonus, etc., may be paid for a period exceeding one month, if these are paid regularly and uniformly, these components can be included in ordinary wages.

(3) Mutual agreements between employer and employees that exclude a particular allowance considered ordinary wages according to the Labor Standards Act are null and void because such an agreement sets conditions lower than that of the Labor Standards Act.

(4) Application of Ordinary Wage

-Bonus

-Payment made for an employee’s living costs or welfare, regardless of working hours

II. Average Wages

Average wage means the actual wages paid for actual work performed and calculated into the daily wage rate. Average wage is the amount calculated by dividing the total amount of wages paid to the relevant worker during the three calendar months prior to the date of calculation by the total number of calendar days during those three calendar months.

$$\text{Average Wages} = \frac{\text{Total amount of wages paid for the last three calendar months}}{\text{Total number of calendar days in the last three calendar months}}$$

III. The classification of Individual Wages based on Average/Ordinary Wages

The classification of individual wages or allowances into average wages or ordinary wages is illustrated in the Calculation Rules for Ordinary Wages (Article 476 of Regulation of the ministry of Labor, January 22, 2002) as follows: [Here, payments that do not fall under either of the two categories are distinguished as other payments.]

Standards Examples of judgment	Ord. Wage	Avg. Wage	Other Paymt
1. Basic pay or wages determined to be paid for the contractual working hours or legal standard working hours	0	0	
2. Fixed payments determined to be paid periodically or uniformly as daily wages, weekly wages, and monthly wages for a day, a week, a month, or contractual working hours or legal standard working hours within a payment period			
① Allowances previously determined to be paid in lump sum for the job and its degree of importance: job allowance (finance, accounting), title allowance (section manager, team leader), etc.	0	0	
② Allowances paid to adjust price or wage gaps between positions: Price allowance, adjust allowance etc.	0	0	
③ Allowances paid in accordance with technological skills, qualifications, licenses, and special work: technology allowance, license special work allowance, dangerous work, etc.	0	0	
④ Allowances paid uniformly to employees working under special conditions, such as allowances for remote locations and cold regions	0	0	
⑤ Allowances paid uniformly, without considering the number of days served, such as riding allowance, aviation allowance and sailing allowance for employees driving, sailing, flying, or otherwise operating buses, taxis, trucks, ships, or airplanes	0	0	
⑥ Allowances paid uniformly without work performance every month to promote and efficiency	0	0	
⑦ Other wages or allowances paid equivalent to those in ① to ⑥ above	0	0	
3. Variable payments according to actual work and other payments made outside a fixed period		0	
① Overtime work allowances, night work allowances, off-day allowances, menstruation leave allowances paid according to the ‘Labor standards Act’ and the ‘Act concerning of Labor Day.’ or off-day work allowances paid as remuneration for work under Rules of Employment, etc.		0	
② Riding allowance, aviation allowance, sailing allowance, and pit allowance paid only on working days		0	
③ Allowances paid periodically in accordance with work in an attempt to improve production and work efficiency: production promotion allowance, efficiency allowance, etc.		0	
④ Allowances to promote long-term service and regular attendance: regular attendance allowance, service allowance, diligence allowance, etc.		0	
⑤ Day & night duty allowances fixed and paid in advance under Rules of employment, etc		0	
⑥ Bonuses A. in case where payment conditions, amounts, and payment are			0

regulated in the Rules of Employment, or where employees are paid habitually and naturally expect to get paid regular bonuses, exercise subsidies, etc.		0	
B. In case where payment is not paid habitually, but paid or definitely in accordance with company profit at the employer's discretion and favor			
⑦ Service charges (i.e tips): in case where these are distributes in a lump sum by the employer		0	0
4. Subsidies for an employee's living costs or welfare, of working hours			
① Commuting allowances, vehicle maintenance subsidies			
A. If rendered periodically and uniformly to all employees			
B. If rendered variably according to the number of days in attendance or to a few employees		0	0
② Company housing allowances, winter fuel allowance, kimchi allowances		0	0
A. If rendered periodically and uniformly to all employees			
B. If rendered temporarily or to a few employees			
③ Family allowances, education allowances			
A. If rendered uniformly to all employees regardless of marital status			
B. If rendered only according to the number of family members or to a few employees (paid as child education allowance, employee training allowance, etc.)		0	0
④ Meals or meal allowances			
A. If rendered uniformly to all employees by means of a labor contract, Rules of Employment, or etc.			0
B. Actual meals paid in accordance with the rate of attendance at work			0
5. Payments excluded from the subject of wages			
① Pay for suspension of business, severance pay, advance of dismissal allowance			
② Allowances offered to support or benefit employees: congratulatory allowances, condolence allowances, coverage of medical fees, disaster recovery fees, training ~ exercise subsidies, uniform subsidy, commuting subsidies, dormitory, housing, etc.			0
③ Insurance premiums for social security or damage coverage: employment insurance, medical insurance, national pension, insurance, etc.			0
④ Actual payments made for actual expenses: trips, information-gathering fees, business expenses, working tool purchases, etc.			0
⑤ Payment for temporary or unexpected reasons or for unfixed dates of payment, indefinite time or rare cases when payment is made despite regulations for payment: marriage allowances, accident or sickness allowances, etc.			
⑥ Corporate facilities or maintenance fees: expenses for equipment loss			

Source: "Korean Labor Law: Disputes & Resolutions", Joongang Economic Daily, Bong Soo Jung