

Ordinary Wage and Average Wages in Korea

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1. Overview

The term "Wage" means wages, salaries, and any other money and valuable, regardless of their titles, which the employer pays to a worker as remuneration for work (Article 2 (1)-5 of Labor Standards Act(LSA)). The Ordinary Wage and Average Wage are two distinct concepts of Wages that are applied in different situations. The Ordinary Wage is included in the calculation for ㉠ extended work allowance, night work or holiday work allowance, ㉡ unused leave compensation in cases where the paid is under 'paid allowance' not under average wage, ㉢ dismissal allowances replacing advance notices of dismissal. And Average Wage is included in the calculation for ㉠ severance pay to a retired employee, ㉡ compensation of employees during the period of suspension of a business, ㉢ and compensation for occupational injury or disease.

2. Definition of Ordinary Wage

- 1) "Ordinary Wage" means hourly wage, daily wage, weekly wage, monthly wage, or contract amount to be paid to a worker for a specifically agreed work or entire works on a regular and flat basis.
- 2) In case of calculation an ordinary wage as an hourly wage rate, the ordinary wage shall be an amount calculated in accordance with any of the following formulas;
 - ① The amount agreed upon as an hourly wage, if any
 - ② The amount obtained by dividing a daily wage rate by the contractual working hours per day, if there is an amount agreed upon as a daily wage rate
 - ③ The amount obtained by dividing a weekly wage rate by the standard hours for the calculation of the weekly ordinary, if there is an amount agreed upon as a weekly wage rate
 - ④ The amount obtained by dividing a monthly wage rate by the standard hours for the calculation of the monthly ordinary wage, if there is an amount agreed upon as a monthly wage rate
 - ⑤ The amount obtained by applying subparagraphs ② through ④ mutatis mutandis, if there is an amount agreed upon as the wage rate for any period other than a day, a week, or a month
 - ⑥ The amount obtained by dividing total sum of wages calculated on a piece work basis for the period for the calculation of the wages by total working hours during the same period (referring to the wage settlement period, if there is a date set for the settlement of wages), if there is a wage agreed upon as the contract amount
 - ⑦ The amount obtained by adding up the amounts calculated in accordance with subparagraphs ① through ⑥, if the wage to which a worker is entitled consists of two or more different types of wages set forth in subparagraphs ① through ⑥.
- 3) When the calculation of the ordinary wage under paragraph (1) is based on a daily wage rate, such ordinary wage shall be calculated by multiplying the hourly wage rate under paragraph (2) by the contractual working hours per day.

(Article 6 of Enforcement Decree of the LSA)

3. Definition of Average Wage

- 1) The term "Average Wages" means the amount calculated by dividing the total amount of wages paid to a relevant worker during three calendar months immediately before the day on which a cause for calculating his/her average wages occurred by the total number of calendar days during those three months. This shall apply mutatis mutandis to the employment of less than three months (Article 2 (1)-6 of LSA)

- 2) Where a period for the calculation of Average Wage it includes a period falling under any of the following subparagraphs, such period and wages paid during that period shall be subtracted respectively from the period and the total amount of wage which shall serve as the basis for the calculation of average wage.
 - ① A probationary period
 - ② A period during which the employer's business is closed because of a cause attributable to the employer
 - ③ A period before and after maternity leave
 - ④ A period of temporary suspension for medical treatment due to occupational injury or disease
 - ⑤ A period of child-care leave
 - ⑥ A period of labor dispute
 - ⑦ A period of temporary retirement from office or of absence from office in order to perform a duty under the Military Service Act, the Establishment of Homeland Reserve Forces Act, or the Framework Act on Civil Defense: Provided, That this shall not apply where the period for which wages have been paid
 - ⑧ A period of temporary retirement from office due to a non-occupational injury or disease, or any other cause with the employer's approval

- 3) Wages and allowances paid on a temporary basis and wages paid by any means other than money shall not be included in the total amount of Average Wages: provided, that the same shall not apply to those specified by the Minister of Employment and Labor

(Reference: No. 21, 통상임금산정지침 / 인사급여업무사례 \ 신고&세무실무,
Reference: No. 5, 근로기준법(평균, 통상임금) / 인사급여업무사례 \ 신고&세무실무)

[Appendix 1]

Judgment criteria for Ordinary Wages

A wage element is classed as Ordinary Wage only when it satisfies all of the four requirements; compensation in return for prearranged work, regularity, uniformity and fixedness

- ① **Pre-determinable:** A compensation in return prearranged work means "a monetary payment that, under an agreement between an employer and an employee, is to be paid for the work which the employee is usually expected to provide during the prearranged hours of work
- ② **Regularity:** The nature of regularity concerns whether a wage element is paid on a regular basis at a regular interval or not. Even when a wage element is paid at an interval of a period longer than 1 month, it may be regarded as regular if it is paid continuously at a regular interval.
- ③ **Uniformity:** Uniformity is a concept that covers not only payments made to all employees but also payments made to all employees who meet certain conditions or standards.
- ④ **Fixedness:** The nature of fixedness exists in case whether a wage element will be paid or not is already confirmed at the time when overtime work is done, regardless of the employee's achievement or performance or any other additional condition.

Wage Type which can be deemed as Ordinary Wage

Wage type	Features	Yes (deemed as ordinary wage) No (not deemed as ordinary wage)	
		Yes	No
Skill allowance	Allowance paid to employees with certain skills or a qualification (qualification allowance, license allowance, etc.)	Yes	
Consecutive service allowance	Allowance whose payment or amount changes based on the duration of consecutive service	Yes	
Family allowance	Family allowance which changes based on the number of dependent family members	No	(because the number of dependent family members is a condition that has no relation to the employee's work)
	Family allowance paid to every employee regardless of the number of dependent family members	Yes	(although it is called family allowance, it has the nature of uniformity)
Performance based pay	Pay whose payment or amount depends on a job performance evaluation	No	(because it depends on an additional condition, it does not have the nature of fixedness)

Wage type	Features	Yes (deemed as ordinary wage) No (not deemed as ordinary wage)	
Performance based pay	Pay with a guaranteed minimum	Yes	
	Bonus whose regular payment is already confirmed (regular bonus)	Yes	
Bonus	Bonus which is temporarily or irregularly on the company's performance or at the employer's discretion (business profit-sharing distribution pay, grant, incentive. etc.)	No	(because it is not confirmed in advance, it lacks the nature of fixedness)
	Monetary payment available only to the employees who are incumbent at a particular point of time (many of the subsidies for home-coming on traditional holidays or the vacation subsidies)	No	(because it is not paid in return for work, it lacks the nature of fixedness)
Monetary payment available only to the employees who are incumbent at a particular point of time	Monetary payment which is paid in proportion to the days worked if an employee retires from the company before a particular point of time	Yes	(so long as it is paid in proportion to the days work, it has the nature of fixedness)

Source: Guidelines on Ordinary Wages, January 2014, Ministry of Employment and Labor

[Appendix 2]

**Classification on Ordinary Wage / Average Wages
(example)**

Classification Criteria (example)	Ordinary wage	Average wage	Other payment
1. Basic pay or wage determined to be paid for contractual working hours or legal standard working hour	○	○	
2. Fixed payments determined to be paid on a regular and uniform basis as daily, weekly or monthly for contractual working hours or legal standard working hour within a payment period			
① Allowance paid under pre-designated conditions according to the importance of the job or position: Job allowance (for a job related to finance or cashier), position allowance(for team leader or branch manager), etc.	○	○	
② Allowance paid to resolve the gap between positions or adjust to prices: price allowance, adjustment allowance, etc.	○	○	
③ Allowance paid to employees with technical skills, qualifications or licenses or those engaged in special work: skill allowance, license allowance, special work allowance, risky work allowance, etc.	○	○	
④ Allowance paid on a regular and uniform basis to employees working in a special location: remote area allowance, cold area allowance, etc.	○	○	
⑤ Allowance paid at a fixed rate, regardless of the days worked, to employees who drive/steer/navigate/aviate a bus/taxi/truck/ship /airplane: driving allowance, air flight allowance, navigation allowance, etc.	○	○	
⑥ Allowance paid at a fixed monthly rate, regardless of job performance, in order to improve production skills and efficiency: production promotion allowance, efficiency allowance, etc.	○	○	
⑦ Wage or allowance corresponding to the payments in 1~6 above	○	○	
3. Payments whose amount depends on the hours or days worked and payments made for other periods than the wage reference period			
① Extended work allowance, night work allowance, holiday allowance, monthly paid leave allowance, annual paid leave allowance, menstruation leave allowance paid pursuant to the LSA and Designation of Workers' Day Act, and holiday work allowance paid in return for work on holidays designated under the rules of employment, etc.		○	

Classification Criteria (example)	Ordinary wage	Average wage	Other payment
<p>② Allowance paid at a given rate only for the days worked: boarding allowance, flight allowance, navigation allowance, underground allowance, etc.</p> <p>③ Allowance paid on a regular basis depending on work performance to improve production technology and efficiency: production promotion allowance, efficiency allowance, etc.</p> <p>④ Allowance paid to promote preferential treatment or non-absence of employees who are in continuous service for a long time: full attendance allowance, consecutive service period or regular attendance allowance, etc.</p> <p>⑤ Day watch or night watch allowance paid in a predetermined amount under the rules of employment, etc.</p> <p>⑥ Bonus</p> <p>a. In case it is paid according to the conditions, rates or timing under the rules of employment, or paid to all employees in an established practice so that employees are expected to be paid: regular bonus, physical training expense, etc.</p> <p>b. In case it is never paid as an established practice but rather paid temporarily or indeterminately according to decision or goodwill of employer depending on business performance: distribution of business performance, productivity bounty, rewards, incentives, etc.</p> <p>⑦ Gratuity (tip): In case the employer controls and distributes it.</p>		<p>○</p> <p>○</p> <p>○</p> <p>○</p> <p>○</p> <p>○</p> <p>○</p>	<p>○</p>
4. Payments made to support employees' income or promote their welfare, regardless of the hours worked			
<p>① Commute allowance, vehicle maintenance expense</p> <p>a. In case it is paid on a regular and uniform basis to all employees</p> <p>b. In case it is paid depending on days worked or to only part of the employees</p> <p>② Company residence allowance, winter fuel allowance, winter kimchi allowance</p> <p>a. In case it is paid on a regular and uniform basis to all employees</p> <p>b. In case it is paid temporarily or to only part of the employees</p> <p>③ Family allowance, schooling allowance</p> <p>a. In case it is paid on a uniform basis to all employees including one-person households</p>		<p>○</p> <p>○</p> <p>○</p> <p>○</p> <p>○</p>	<p>○</p> <p>○</p>

Classification Criteria (example)	Ordinary wage	Average wage	Other payment
b. In case it is paid depending on the family size or only part of the employees (paid under the name of study grant, education expense support, etc.) ④ Meals, meal allowance a. In case it is provided on a uniform basis to all employees according to the collective agreement, the rules of employment, etc. regardless of days worked b. In case it is provided depending on days worked			○
5. Payments excluded in calculation of wage			
① Suspended work allowance, retirement allowance, dismissal advanced notice allowance			○
② Payment given simply to support employees' income or promote their welfare: congratulatory money, condolence money, medical expense, occupational accident money, physical fitness expense, clothing expense, use of shuttle bus, dormitory or housing, etc.			○
③ Social security and compensation insurance contributions: employment insurance premium, health insurance premium, national pension, driver insurance			○
④ Payments given to disburse the money spent by the employees: business trip expense, information activity expense, business promotion expense, work tools expense			○
⑤ Payments made for a temporary or unexpected reason, or an indeterminate, indefinite or rare incidence: wedding allowance, death/injury/disease allowance, etc.			○
⑥ Facilities of company and repairing expense: tool damage or loss expense, etc.			○

Source: Calculation Rules for Ordinary Wages, September 25, 2012, Article 47 of Regulation of the Ministry of Labor