

# So many hours, so little overtime

**ON THE JOB: *Labour laws notwithstanding, for white-collar employees, work ends when it's done and not before***

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For a worker slaving away in the office at 10 pm to complete a project, fair compensation for labour is a legitimate concern. And in an era when e-mail and mobile phones make it easy to reach anyone, anywhere and anytime, some people never seem to get away from their work.

But where payment for overtime is concerned, the law can be interpreted fairly liberally to exclude many people in white-collar occupations.

As stated in the Labour Law, it is the employer's duty to announce normal working hours to employees by specifying the times that work begins and ends. Working hours must not exceed eight a day or 48 a week. Some exceptions apply to work considered hazardous to employees, for which the maximum number of hours must be reduced.

Normally an employer is prohibited from requiring an employee to perform work beyond the agreed hours or on holidays, unless it is urgent or the nature of the business requires continuous staffing otherwise damage could result.

Examples of businesses in which employees can be asked to work on holidays include hotels and tourism, transport, restaurants, clubs, associations, medical institution or related businesses.

Where overtime work is required, the law limits the number of overtime hours per week to 36, for which the employee must be paid 1.5 times his or her normal wage.

For work on holidays, the employer is obliged to pay double-time to any staff who are not normally scheduled to work on those days. Such employees who work more than eight hours on a holiday are entitled to triple-time for the additional hours.

Interesting, the law states that employees must consent in advance to any request by employers for overtime work. Employers are also required to supervise any overtime work.

"However, we rarely see such practices in white-collar workplaces," observed [Sasirusm B. Chunhakasikarn](#), a litigator at the law firm Tilleke & Gibbins International.

In fact, the overtime regulations appear to have been drawn up mainly to apply to day labour and blue-collar workplaces such as factories, where work and output can be broken down and priced in units. In white-collar workplaces, where output is more difficult to quantify, things become more difficult.

So who is eligible for overtime? Generally, Ms Sasirusm explained, people classified as supervisory or those having others under their supervision do not get overtime. However, the law offers some guidelines. Anyone performing any of the following work will not be paid overtime:

- ◆ People with authority and duty to act on behalf of the employers on conditions of employment, granting gratuities, reducing wages or termination of employment;
- ◆ Any work concerning railways, watergates or spillways, monitoring of water levels, fire fighting, or any work concerning prevention of public hazards;
- ◆ Caretaking or guarding premises or property;
- ◆ Lastly, any other work requiring performance outside the workplace, for which, by its nature, definite working hours cannot be fixed.

When all the conditions set out in the law are considered, it could be concluded that most employees are eligible for overtime payments if they work more than 48 hours a week. However, in practice, most do not get paid unless they perform clerical, secretarial or administrative work at junior levels.

The reason is that the work in white-collar workplaces is typically evaluated based on successful outcomes, not in terms of completed units or output, said Aree Patcharat, general manager of the recruitment firm Adecco Consulting.

“Therefore, it is a definite duty of employees to complete their tasks or assignments no matter how long it will take or how much devotion must be put in,” she said.

For example, she said, accountants have no right to claim overtime no matter how many hours or nights they have to spend to finish all book-keeping and financial statements by the agreed deadlines. “Because it is their duty to do so,” said Ms Aree.

“Besides, they knew in the first place that the nature of their work meant that working extra hours would surely be required from time to time in order to meet closing dates and submission of their work.”

Ms Sasirusm said that white-collar workers knew intuitively that their work was based on overall success. “Then they need not to be instructed by the employer to work extra hours to complete their work by the deadline. In other words, they have to complete it whether they are being told or not.”