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**OVERTIME WORK ALLOWANCES**

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The Employment Standards Act stipulates the following Additional Work Compensation:

- (a) 125% (of the hourly wage) is the rate applicable to overtime work during working days (Overtime Work Compensation);
- (b) 135% is the rate applicable for work performed on non-working days (Holiday Work Compensation);
- (c) If overtime work is done on a working day after 10:00 p.m. or before 5:00 a.m., then 150% becomes the applicable rate (Overtime Work Compensation + Late-Night Work Compensation); and
- (d) If work is done on a non-working day after 10:00 p.m. or before 5:00 a.m., then 160% becomes the applicable rate (Holiday Work Compensation + Late-Night Work Compensation).

However, if an employee is deemed to be in a managerial position, no Additional Work Compensation mentioned above is required to be paid other than Late-Night Work Compensation; which is equivalent to an additional 25% of the hourly wage for any work done after 10:00 p.m. or before 5:00 a.m. (both on working days and non-working days).

When Japan's economic bubble collapsed in the early 1990's, ailing companies tried to reduce the impact of decreased profits by lowering their overhead. Employers first attempted to do so by reducing their workforces, but the effect of these cutbacks in manpower was an increase in the work volume for the remaining employees, which translated into longer working hours. The employees' health deteriorated, and overwork-related deaths and suicides increased. Nevertheless, remaining employees found themselves in a position where they could not demand Additional Work Compensation from their company because the company would argue that it might become bankrupt if it had to pay the claims. In response to this situation, the Government declared that the non-payment of Additional Work Compensation was unacceptable, and began a crackdown in 2002. Since then, many companies have been investigated by the Government and ordered to pay any outstanding Additional Work Compensation. Some cases have even resulted in criminal procedures.

バブル経済の崩壊により人減らしがすすんだ結果、残された従業員一人当たりの仕事量が増え、長時間労働を強いられる従業員があふれました。これを原因として、精神疾患、過労死、自殺が多発しています。この現状に危機感を感じたと思われる厚生労働省は、従業員の労働時間を会社にきちんと管理させる内容の通達を 2001 年に出すとともに、時間外・休日・深夜労働に対する割増賃金を払っていない会社に対して、2002 年あたりから、それまでに見られないほどの厳しい対応をとりはじめました。是正勧告を出して未払分の支払を事実上促すのは当然のこと、会社の対応次第では刑事事件にまで発展させることもいとわなくなっています。

Should you wish to receive further information as to the above-mentioned, and/or wish to consult as to whether your company is in compliance with labor/employment law, please contact **Hideki Thurgood Kano** (e-mail: [hidekithurgood.kano@andersonmori.com](mailto:hidekithurgood.kano@andersonmori.com), tel: 81-3-6888-1061) or **Junko Hirayama** (e-mail: [junko.hirayama@andersonmori.com](mailto:junko.hirayama@andersonmori.com), tel: 81-3-6888-1166).