

What's your time worth?

Long hours a fact of working life for many who don't assert their right to overtime pay

CAREERPaths

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The talk in economic circles lately has been of new ways to measure development. Some planners argue that the obsession with growth, gross domestic product and money should be tempered by considerations of things that are not as easy to measure.

Happiness would be a start. One could apply the argument in daily life as well. Most of us have to work, some of us enjoy what we do, and none of us want to work more than we have to. In the end, money isn't everything.

The fact is that a lot of people work well beyond the expected eight hours a day. Weekend work is still commonplace. So is staying late into the evening, although in some cases it beats the alternative — sitting for three hours in rush-hour traffic.

But if you're putting in those extra hours because your workload is too great, and you've started to regret the lack of a home life or time to pursue personal interests, is that really fair?

Working overtime is commonplace but some employees are not getting paid for those additional hours. Those who are compensated aren't always sure whether they're receiving everything to which they're entitled.

Employers frequently note that staff at supervisory or management levels are not eligible for overtime. They may also believe that some staff don't work very efficiently during regular hours, so why pay them extra when they stay longer?

The law takes a slightly different view.

According to the Labour Protection Act, employers are prohibited from requiring employees to perform work beyond normal working hours and days without employees' prior consent. "Normal working hours" means eight hours a day or 48 hours a week.

If they have secured employees' consent, employers can only demand that they work overtime "from time to time", under the letter of the law. Such agreed overtime must be compensated with overtime pay.

"However, the fact is that a large number of staff in many fields are working beyond that, coming in at 8 am and never leaving before 9 pm every day, without getting paid for overtime, as they are labelled as managers or other supervisory levels," says Thawat Damsa-ard, a partner with the international law firm Tilleke & Gibbins.

"Such practice is considered illegal and it violates the rights of employees no matter what the companies' regulations or employment contracts say."

Employers are in fact required to pay for extra working hours for all staff agreeing to work overtime. The normal rate is 1.5 times the normal wage. Employees who are entitled to receive wages or salaries on holidays must be paid at least equal to their normal pay. Those who are not entitled to wages or salaries on holidays must be paid no less than double-time. If employees work more than eight hours on a holiday, they are entitled to triple-time for the additional hours.

The exceptions apply to employees who have authority or are assigned by employers to act on their behalf and perform the following roles: hiring staff, granting gratuities, reducing wages or termination of employment. These people are not entitled to additional pay for extra working hours.

As well, there are some businesses in which employees can be asked to work during holidays. These include restaurants, medical institutions, clubs, transport, tourism, hotels and related fields.

Mr Thawat advises employees who believe they are being treated unfairly to document their workload if it requires additional hours on a regular or daily basis. They should then bring this evidence to the employer or direct supervisor. Considerate bosses will try to solve the problem by finding ways to reduce the workload, perhaps by improving the overall work process or even hiring additional staff.

However, in cases where employers are unresponsive, legal action may be the next recourse. While the labour court is viewed as fairly employee-friendly, one

should have a well-prepared argument. The reason is that most employers will maintain that it should be possible to complete the required work in the allotted regular time.

In fact there are many instances where employees could be more efficient but don't realise how to reduce their workloads, says Munthana Thamlikitkul, the CEO of the executive recruitment agency Tricolor Outsourcing (Thailand). "Therefore, it's vital that the employees themselves make sure that they aren't actually the cause of the problem."

She acknowledges that most people at supervisory levels and higher haven't received overtime pay since they receive higher salaries than others. "Anyway, they may qualify for special bonuses or other special benefits."

At the same time, she says, there are many employees who are willing to work the extra hours without demanding extra pay, because they value achievement and also want to ensure upward career movement.

"These types of employees are those who feel satisfied and happy with their work and have positive attitudes toward their employers and companies," she says. "So, a lot depends on the companies and whether they're treating their staff right. If so, [the staff] usually are willing to devote themselves without many conditions."

Which brings us back to happiness — that's what we should be working for. But happy or not, we should also know our rights, legal protections and what to do when things go wrong.