

# 2016年度勞動基準法修正案介紹

## The newly amendments to the Labor Standards Act

Jan.16, 2017

## Amendment Highlights

	Highlights	Effective Date
A	Consistency of National Holidays	Jan.01, 2017
B	There should be 2 days off for every 7 days, an “official holiday” and a “rest day”.	Dec.23, 2016
C	Overtime payment for leaves	Dec.23, 2016
D	Days of annual special leaves	Jan.01, 2017
E	Minimum of rest hours for shift workers	undefined
F	Protection for workers who file complaints of the employers, and increasing the penalty of violation up to NTD1M	Dec.23, 2016

## A. National Holidays : 12 days a year ( § 37)

Commemorative Holiday	Labor Day	Others
<ul style="list-style-type: none"><li>• Jan.1</li><li>• Feb.28</li><li>• Oct.10</li><li>• Oct.31</li></ul>	<ul style="list-style-type: none"><li>• May 1</li></ul>	<ul style="list-style-type: none"><li>• Lunar New Year 3 days</li><li>• Women Day and Children's Day (1 day before Ching Ming Festival Day)</li><li>• Dragon Boat Festival</li><li>• Mid-Moon Festival</li><li>• New Year's Eve</li></ul>

**B. It is mandatory that there are two days off for every seven days, one of which is an “official holiday” and the other is a “rest day.” ( § 36)**

## C. Overtime payment ( § 24)

Type	Description
Normal working day	To be computed in accordance with §24 of the Labor Standards Act(“LSA”)
Rest day	<p>According to the newly amendments, §36, there are two days off for every seven days, one of which is an “official holiday” and the other is a “rest day.”</p> <p><u>※Only with the consent of the worker, the worker is required to work on the rest day.</u></p>
Official Holiday	<p>According to the newly amendments, §36, there are two days off for every seven days, one of which is an “official holiday” and the other is a “rest day.”</p> <p><u>※The workers can be requested to work on the official holiday only under the incident cases of natural disaster or unexpected events. Otherwise, the employer shall be punished by fine of NTD20,000 ~ NTD1,000,000.</u></p>
National Holiday	National holidays, Labor Day and other days in accordance with §37 of the LSA
Special Leave	Special leaves on an annual basis in accordance with §38 of the LSA

## C. Overtime payment ( § 24) cont'd ...

Type	Overtime Payment Computation
Normal working day	<ul style="list-style-type: none"> <li>a. an hourly wage of 0.34 times the regular hourly wage within the first 1~2 hrs</li> <li>b. an hourly wage of 0.67 times the regular hourly wage within the 3~4 hrs</li> <li>c. regular working hrs plus overtime work shall not exceed 12 hrs for that particular day</li> </ul>
Rest day	<ul style="list-style-type: none"> <li>a. an hourly wage of 1.34 times the regular hourly wage within the first 1~2 hrs</li> <li>b. an hourly wage of 1.67 times the regular hourly wage within the 3~8 hrs</li> <li>c. an hourly wage of 2.67 times the regular hourly wage within the 9~12 hrs</li> <li>d. working for less than 4 hrs will be regarded as working for 4 hrs, working for between 4~8 hrs will be regarded as 8 hrs, working for between 9~12 hrs will be regarded as 12 hrs</li> </ul>
Official Holiday	<ul style="list-style-type: none"> <li>a. an hourly wage of 1 times the regular hourly wage within the first 1~8 hrs</li> <li>b. an hourly wage of 2 times the regular hourly wage within the 9~12 hrs</li> <li>c. working for less than 8 hrs will be regarded as working for 8 hrs</li> <li>d. And, to grant an optional leave</li> </ul>
National Holiday	<ul style="list-style-type: none"> <li>a. an hourly wage of 1 times the regular hourly wage within the first 1~8 hrs</li> <li>b. an hourly wage of 1.34 times the regular hourly wage within the 9~10 hrs</li> <li>c. an hourly wage of 1.67 times the regular hourly wage within the 11~12 hrs</li> </ul>
Special leave	<ul style="list-style-type: none"> <li>d. working for less than 8 hrs will be regarded as working for 8 hrs</li> <li>e. Or, to grant an optional leave</li> </ul>

## D. Special Leaves( § 38)

Seniority	Special Leave
6 months ~ 1 year	3 days天
1 year ~ 2 years	7 days
2 years ~ 3 years	10 days
3 years ~ 5年	14 days
5 years ~ 10 years	15 days
Over 10 years	16 days, and one additional day for each year of service, max of 30 days

- The employer shall pay double wages for the special leaves which were not taken due to the change of the calendar year or the termination of the contract.
- The information of above-mentioned annual special leaves and the days which were not taken shall be well-recorded and inform the workers annually.

## **E. Minimum of 11 rest hours for shift workers( § 34)**

### **Effective date(undefined)**

- If a rotation system is adopted, that shift workers should get at least 11 hours of rest before working another shift

## **F. Protection for workers who file complaints of the employers( § 74), and increasing the penalty of violation up to NTD1M( § 79)**

### **Amendments**

- An employer may not discharge, transfer or take any unfavorable measure against the worker who files a complaint of the employer.
- The authority-in-charge shall keep the personal data of the complainant confidential.
- An employer who violates any of the LSA shall be punished by an administrative fine of NTD20,000 ~ NTD1,000,000.

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