

J. Y. Interpretation No.226 (May 20, 1988) *

ISSUE: Should a worker who handles administrative matters be treated as a worker under the Enforcement Rules of the Factory Act?

RELEVANT LAWS:

Article 4 of the Factory Act (工廠法第一條) ; Article 3 of the Enforcement Rules of the Factory Act (工廠法施行細則第三條) ; Article 2, Paragraph 1, of the Labor Safety and Health Act (勞工安全衛生法第二條第一項) .

KEYWORDS:

workers (工人) , office workers (事務性工人) , employers (雇主) , power-generating equipment (發動機器) , factories (工廠) , Taiwan Provincial Government (臺灣省政府) .**

HOLDING: Article 3 of the Enforcement Rules of the Factory Act, promulgated by the Ministry of Interior on June 24, 1976, stipulates that: "the term 'worker' mentioned in this Law refers to a person employed in a line of work and earning a wage." An equivalent definition of 'worker' was also given in Article 3

解釋文：中華民國六十五年六月廿四日內政部發布施行之工廠法施行細則第三條規定：「本法所稱工人，係指受僱從事工作獲致工資者。」臺灣省政府於中華民國六十八年三月廿三日修正臺灣省工廠工人退休規則，其第三條所稱工人，與上開規定相同，並不以從事製造、加工、修理、解體等工作者

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of the amended Regulation Governing the Retirement of the Factory Workers of Taiwan Province promulgated by the Taiwan Provincial Government on March 23, 1979, which does not specifically restrict the definition of 'worker' to a person working only in manufacturing, processing, repairs, or disassembly. In this case, an office worker employed by an employer to work in a factory's work area or in an office setting and who receives wages is included in the aforementioned definition.

REASONING : The definition of 'worker' in the Factory Act was ambiguous prior to and following the promulgation of the law. In accordance with the Factory Act, which was amended and promulgated on December 30, 1932, the Enforcement Rules of the Factory Act were to be amended and promulgated on the same date. Article 1 of the above Enforcement Rules stated that: "the term 'worker' mentioned in this Act refers to those workers who are directly involved in production or assisting in production work. Excluded are all other employees

為限，來函所稱「事務性工人」，如係受僱主僱用而於工廠之作業場所或事業場所從事工作而獲致工資者，亦包括在內。

解釋理由書 : 工廠法所稱工人之含義，法令之規定前後寬嚴有異。按工廠法於中華民國二十一年十二月三十日修正公布時，工廠法施行條例亦於同日修正公布。該施行條例首條揭示：「工廠法第一條所稱工人，係指直接從事生產或輔助其生產工作之工人而言，其僱用員役與生產工作無關者不在此限」，對工人之定義，採取較嚴之規定。惟工廠法於中華民國六十四年十二月十九日再修正時，為適應工業發展之需要，擴大其適用範圍，將工廠法原第一條中之「平時僱用工人在三十人以上者」之限制刪除，改為：「凡用發動機

and those not involved in production work". The above definition thus constitutes a stricter definition of the term 'worker'. As the Factory Act was amended on December 29, 1975, to accommodate the needs of industrialization, its scope of applicability was widened. The restrictive stipulation on "factories employing 30 or more workers" was changed to "any factory using power-generating equipment shall be subject to this law." The aforementioned Enforcement Rules that had been in effect for more than forty years were rendered null and void, as Article 76 of the amended Enforcement Rules empowered the Ministry of Interior to enact enforcement rules. Subsequently, on June 24, 1976, the Ministry of Interior promulgated a new rule, in which Article 2 declared that: "the term 'factories' refers to any workplace or office workplace which employs workers working in manufacturing, processing, repairs and disassembly." To further clarify the intent of the Law, the Rules drew from Paragraph 1, Article 2, of the Labor Safety and Health Act promulgated on April 16, 1974. This was reflected in Article 3 of the Rules, which

器之工廠，均適用本法」；且於同日廢止已施行四十餘年之上述工廠法施行條例，於新修正之工廠法第七十六條，授權內政部訂定施行細則。中華民國六十五年六月廿四日，內政部基於此授權，發布工廠法施行細則，其第二條後段規定：「所稱工廠，係指凡僱用工人從事製造、加工、修理、解體等作業場所或事業場所。」並為貫徹母法之修正意旨，參照中華民國六十三年四月十六日公布之勞工安全衛生法第二條第一項，而於第三條明定：「本法所稱工人，係指受僱從事工作獲致工資者」對工人之定義，改採較寬之規定。準此，凡受僱於雇主，在工廠之作業場所或事業場所（事務所）從事工作而獲致工資之工人均屬之，並不以從事製造、加工、修理、解體等工作者為限。台灣省政府於中華民國六十八年三月二十三日修正台灣省工廠工人退休規則，其第三條所稱工人，與上開工廠法施行細則第三條之規定相同。來函所稱之「事務性工人」亦包括在內。

clearly states that: "the term 'worker' mentioned in this Law refers to a person employed in a line of work and earning a wage", hence broadening the definition of the term 'worker'. Therefore, any worker who is employed by an employer and works at a factory workplace or office workplace is a worker under this definition and the scope of the term is no longer restricted to those working only in manufacturing, processing, repairs and disassembly. The definition of 'worker' given by Article 3 of the amended Regulation Governing the Retirement of the Factory Workers of Taiwan Province promulgated by the Taiwan Provincial Government on March 23, 1979, is equivalent to the aforementioned definition stipulated in Article 3 of the Enforcement Rules. In this case, an office worker is included in the aforementioned definition.