

WORKING TIME

APPLICATION

Chapter two of the Basic Conditions of Employment Act (BCEA) regulates working time. Working time may also be regulated by a contract of employment or a collective agreement, provided that the terms thereof are not less favourable than those provided in the BCEA.

This information does not apply to senior managers, travelling sales staff or people who work less than 24 hours a month. Employees earning more than the amount set by the Minister of Employment and Labour in terms of section 6(3) of the BCEA are also excluded. (The amount is annually determined by the Minister of Employment and Labour on an annual basis).

ORDINARY WORKING TIME

In determining work time the employer must consider -

- occupational health and safety;
- the family responsibilities of the employee; and
- the Code of Good Practice on the Regulation of Working Time.

Maximum working hours:

- 45 hours a week and nine hours a day if the employee works five or fewer days a week; and

- eight hours a day if the employee works more than five days a week.

To serve the public, work time may be extended by up to 15 minutes a day, but not more than 60 minutes a week.

An employee or a worker (as defined in section 1 of the National Minimum Wage Act, 2018), who works for less than four hours on any day must be paid for four hours work on that day.

OVERTIME

Agreement is needed before an employee can be required to work overtime. The agreement may be contained in the contract of employment or may be on a case-by-case basis. An employee may not be permitted to work for more than twelve hours per day. Overtime may not exceed ten hours a week. An employee must receive 1½ hours' normal wage for overtime worked, and double pay on Sundays and public holidays.

Alternatively, the employer and employee may reach an agreement for the employee to be paid his or her ordinary wage for overtime worked and to be given at least 30 minutes' time off on full pay for every hour of overtime worked, or not to be paid for the overtime

worked but to be given at least 90 minutes' paid time off for each hour of overtime worked.

COMPRESSED WORKING WEEK

By written agreement, employees can work up to 12 hours a day (including lunch intervals) with no overtime pay, not on more than five days a week, provided they work not more than 45 hours' ordinary time a week, and not more than ten hours' overtime per week.

AVERAGING OF WORK TIME

Ordinary and overtime hours may be averaged over a period of up to four months by collective agreement. The employee may not work more than 45 ordinary working hours a week and five hours' overtime a week on average over this period.

MEALTIMES

A meal interval of at least one hour must be given after five hours work without break. By written agreement the meal break can be reduced to a minimum of 30 minutes or done away with if the employee works less than six hours a day.

During the meal break, an employee may only do work that cannot be left unattended or done by anyone else.

WORKING TIME

The employee must be paid for any part of the meal break he/she is required to work or to be available to work or for any part of a meal break that exceeds 75 minutes unless the employee lives on the premises of the workplace.

DAILY AND WEEKLY REST PERIOD

There must be a daily rest period of at least 12 consecutive hours between ending and recommencing work. There must be a weekly rest period of at least 36 consecutive hours. Sunday is a rest day unless agreed otherwise.

By agreement, a daily rest period of at least ten hours is permitted if the employee lives at the workplace and the meal break is at least three hours. A rest period of at least 60 consecutive hours every two weeks can be agreed to. The weekly rest period can be reduced to a minimum of eight hours in any week if the rest period during the following week is extended equivalently.

SHIFT WORK

If the employee works a shift stretching over Sunday and another day, or a public holiday and another day, the entire shift is taken to be on the day on which most of the shift fell.

NIGHT WORK

Night work is any work performed between 18:00 and 06:00. The following is required before employees can be required to do night work:

- there must be an agreement;
- the employee must be compensated by a shift allowance or by a reduction in working hours; and
- transport must be available between the place of work and home.

The employer must tell employees about any potential health hazards and their right to undergo a medical examination for these, for the employer's account, if night work is regularly required. 'Regularly' means working more than one hour between 23:00 and 06:00 at least five times a month or 50 times a year. If night work affects the employee's health the employer must within a reasonable time transfer the employee to a day shift if it is practical to do so.

PUBLIC HOLIDAYS

Normally employees do not work on public holidays unless by agreement. There are 12 public holidays each year, but if a public holiday falls on a Sunday, the Monday is a public holiday.

For payment of overtime on Sundays and public holidays, see the Payments and Calculations CCMA Information Sheet.

RELEVANT LEGISLATION

- Basic Conditions of Employment Act 75 of 1997 as amended, Chapter Two.
- Code of Good Practice on the Arrangement of Working Time, Notice 1440 of 1998.