



Province of the
EASTERN CAPE

SOCIAL DEVELOPMENT
& SPECIAL PROGRAMMES

**OVERTIME AND HOURS
OF WORK POLICY**

Policy Registration No: 2012-311

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DEFINITION OF TERMS:

In this policy, unless the content indicates otherwise the following definitions shall apply:

- i. **Basic Salary-** means the actual salary notch of the employee but not higher than a basic annual salary of R132 054 per annum;
- ii. **BCEA-** means Basic Conditions of Employment Act 75,1997, as amended.
- iii. **Day-** means a period of 24 hours measured from the time when the employee normally commences work.
- iv. **Employee-** means employed by the Department Of Social Development & Special Programmes.
- v. **Employer** means the Department of Social Development and Special Programmes.
- vi. **Exceptional circumstances-**” means performing functions, which are unique to certain circumstances, such as disease outbreaks or disaster management in the department or any crisis which is deemed as an exceptional circumstance.
- vii. **Overtime**” means work in excess of the hours of work per day/week or month that an employee has contracted to perform.
- viii. **Public Holiday-** means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act 36 of 1994).
- ix. **SMS-** mean employees in the rank of Senior Manager or above, including professionals on salary level 13 and higher who partake in the Senior Management Service.
- x. **Trifling period-** mean any period of overtime less than 30 minutes
- xi. **Ordinary Hours of Work-** means the hours of work permitted in terms of section 9 or in terms of any agreement in terms of sections 11 &12 of the Basic Conditions of Employment Act.
- xii. **Department-** refers to the Department of Social Development and Special Programmes.
- xiii. **Night Work-** means work performed after 18H00 and before 06H00 the next day.
- xiv. **HOD-** refers to the Head of Department: Social Development and Special Programmes.
- xv. **Working Day** – any day from Monday to Friday in a week (5 working days)
- xvi. **Calendar Day** – any day from Monday to Sunday (7 calendar days)

LEGISLATIVE FRAMEWORK:

The following are the pieces of legislation underpinning this policy:

- i. Constitution of Republic of South Africa, Act 108 of 1996.
- ii. Public Finance Management Act 1 of 1999 as amended.
- iii. National Treasury Regulations of 2000.
- iv. Public Service Act 103 of 1996 as amended.
- v. Public Service Regulations, 2001 as amended.
- vi. Basic Conditions of Employment Act 75 of 1997.
- vii. DPSA Financial Manual 2011
- viii. Public Service Coordinating Bargaining Council (PSCBC) Resolution 3 of 1999 as amended.
- ix. Code of Good Practice on the Regulation of Working Time issued by the Department of Labour.

1. PREAMBLE:

- 1.1. Overtime working is routinely used in the public service as a way of coping with changes in demand or labour shortages. If you frequently require employees to work overtime, this could be a sign of inefficiency in your business.
- 1.2. Basic Conditions of Employment Act 75 of 1997 provides for the performance of overtime in the Public Service.
- 1.3. This guide covers the legal and management issues concerning overtime working, as well as the pros and cons of using overtime to deal with demand changes. It also looks at some of the alternatives to overtime working which may be cheaper or more flexible to operate on.

2. PURPOSE:

The purpose of this policy is to:

- 2.1. Prescribe the maximum ordinary hours of work that an employee can be expected to work in a week, overtime and payment of overtime, and payment for work on Sundays and Public Holiday.

3. SCOPE OF APPLICABILITY:

- 3.1. This policy applies to all employees and employer which is the Department with the exception of the following:
 - 3.1.1. Senior Managerial Employees, and
 - 3.1.2. Employees who work less than 24 hours a month for an employer.

4. PRINCIPLES AND VALUES:

The following are the guiding principles that underpin this policy:

- 4.1 **Equity** – Where every employee is treated equally regardless of gender and age.
- 4.2 **Transparency**- Openness in terms of remuneration and compensation.
- 4.3 **Participation**- All stake holders should take part in the implementation of this policy.
- 4.4 **Value system**- The policy should cater for the value system of the Department.
- 4.5 **Accountability** – All stake holders should be accountable in the implementation of this policy.

5. POLICY STATEMENT:

- (a) The Department of Social Development & Special Programmes is committed to uniform observation of working hours by all departmental employees as well as compliance with the Basic Conditions of Employment Act 75 of 1997.

5.1. Official/Ordinary hours of work:

- 5.1.1. Official or Ordinary working hours of work are regulated by the Basic Conditions of Employment Act (BCEA) for all employees either than those excluded by s6 (1) and (3) of the BCEA.
- 5.1.2. An employee may not require or permit an employee to work more than:
 - a) Forty five (45) hours in a week and
 - b) Nine (9) hours in any day if the employee works for five (5) days or fewer in a week, or
 - c) Eight (8) hours in any day if the employee works on more than five (5) days in a week.
- 5.1.3. An employee's ordinary hours of work may, by agreement be extended up to fifteen (15) minutes in a day but not more than sixty (60) minutes in a week to enable an employee whose duties include serving members of the public to continue performing those duties after the completion of ordinary hours of work.

5.2. Working Hours:

- 5.2.1 The following are the hours of work that must be adhered to by all employees:

Monday to Thursday: 08h00 - 16h30 and
Fridays: 08h00 - 16h00.

5.2.2 Lunch Breaks:

Monday to Thursday: 13h00 - 13h45 from and
Fridays: 13h00 to 13h30.

5.2.3 Tea Breaks:

Monday to Thursday: 10h00 to 10h15 and from 15h00 to 15h15.

- (i) Fridays 10h00 to 10h15 and there is no afternoon tea break since knock – off time is earlier than 16h30.

- (ii) Hours of work for general assistants are different since they are required to be at work earlier than other officers in order to enable them to perform their duties in a non-disruptive environment. A forty-hour week also applies to them and their knock off time is adjusted to compensate for their early arrival. Therefore, general workers work from 06h00 to 14h00.
- (iii) An agreement in writing may permit an employee to work up to twelve (12) hours in a day, inclusive of the lunch and tea breaks, without receiving overtime pay. This agreement may not require or permit an employee to work:
 - (a) More than forty five (45) ordinary hours of work in any week,
 - (b) More than ten (10) hours in any week or
 - (c) On more than five (5) days in any week.
- (iv) All employees must report to work as per above stipulated times and employees must ensure that they sign the attendance register regularly and their supervisors must monitor these registers and attendance.
- (v) If for any reason, an employee will be late or will not report for duties, the message to that effect must be communicated to his/her supervisor on or before 09h00 am on that particular day.
- (vi) If an employee has not arrived at work by 11h00 due to an employee attending his or her personal things before coming to work, that day will be regarded as a leave day and must sign a leave form for that day.
- (vii) Paydays are regarded as normal working days and all rules mentioned above should apply.
- (viii) The whereabouts of an officer should be known at all times. For example, disappearing during official work is regarded as an act of misconduct.
- (ix) If a pattern of disappearance is observed during working hours, accumulated hours of absence must be converted to leave without pay.

5.3. Overtime:

- 5.3.1. An employer may not require or permit an employee to work overtime in the following cases:
 - (i) if it is not in accordance with an agreement between an employee and the employer
 - (ii) if it is more than ten (10) hours overtime a week.

5.4 Pay for work on Sunday:

- 5.4.1. An employer must pay an employee who works on a Sunday double the employee's wage for each hour worked, unless the employee ordinarily works on Sunday, in this case the employer must pay the employee at one and a half time the employee's wage for each hour worked.
- 5.4.2. If an employee works less than the employee's ordinary shift on a Sunday and the payment that the employee is entitled to is less than the employee's ordinary daily wage, the employer must pay the employee the employee's ordinary daily wage.
- 5.4.3. An agreement may be done as an alternative to overtime payment to permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the payment received by the employee for working on the Sunday.

5.5 Night Work:

- 5.5.1. An employer may only require or permit an employee to perform night work, if so agreed, and if:
 - (i) The employee is compensated by the payment of an allowance, which may be a shift allowance, or by a reduction of working hours, and
 - (ii) Transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
- 5.5.2. An employer who requires an employee to perform work on a regular basis after 23H00 and before 06H00 the next day must:
 - (i) Inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee understands:
 - (ii) Inform the employee of any health and safety hazards associated with the work that the employee is required to perform and of the employee's right to undergo a medical examination at employer's costs, concerning those hazards: before the employee starts, or within a reasonable period of from the employee's starting date of such work, and at appropriate intervals while the employee continues to perform such work and transfer the employee to suitable day work within a reasonable time if:
 - (a) the employee suffers from a health condition associated with the performance of night work and

(b) It is practically possible for the employer to do so.

5.6. Public Holidays:

- 5.6.1. An employer may not require an employee to work on a Public Holiday except in accordance with an agreement.
- 5.6.2. If a Public holiday falls on a day on which an employee would ordinarily work, an employer must pay:
 - i. An employee who does not work on the Public Holiday, at least the wage that the employee would ordinarily have received for work on that day.
 - ii. An employee who does work on the Public Holiday, at least double the amount referred to in paragraph (1) above or if it is greater, the amount referred to in paragraph (1) plus the amount earned by the employee for the time worked on that day.
 - iii. If an employee works on a Public Holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to:
 - a) the employee's ordinary daily wage, plus
 - b) The amount earned by the employee for the work performed that day, whether calculated by reference to time worked or any other method.
- 5.6.3. An employer must pay an employee for a Public Holiday on the employee's usual pay day.
- 5.6.4. If a shift worked by an employee falls on a Public Holiday and another day, the whole shift is deemed to have been worked on the Public Holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

5.7. Method Of Overtime Remuneration/Procedure To Be Followed:

- 5.7.1. The Head of the units who require overtime must make a submission to the Head of Department via their respective General Managers.
- 5.7.2. The submission must indicate the following:
 - i. Period of overtime to be worked;
 - ii. List employees who will be performing the overtime;
 - iii. Anticipated financial implications and confirmation that funds are available;
 - iv. Motivation or reasons for working overtime; and
 - v. A clear project plan must be attached to the submission.
- 5.7.3. Only **once** approval has been obtained may the overtime be performed, in a crisis or disaster situation, verbal approval can be obtained from the Head of Department after consultation with the Senior Manager of the relevant component/directorate which will then be followed up with an ex post facto approval once circumstances permit.
- 5.7.4. In emergency cases it might not be possible to get approval prior to activity therefore a post facto approval must be sought accompanied by a comprehensive report from the Head of Department (HOD).
- 5.7.5. Employees working overtime must sign the attendance register, which will indicate the overtime worked and they must be supervised by the supervisor of the section.
- 5.7.6. Overtime must be indicated as such on the attendance register in red and supervisors must also sign the register as confirmation that overtime was worked. They should closely monitor the overtime.
- 5.7.7. Claim forms (Annexure A) for overtime must be forwarded at the earliest convenience to the relevant Corporate Services Admin section as follows:
 - (i) Claim form to be completed by employees who worked overtime and signed off by them accordingly.
 - (ii) Copy of attendance register as well as memo of approval to be attached to claim form.
 - (iii) Claim form to be submitted to supervisor who then checks relevant attendance register against claim form and appends signature confirming that overtime was indeed worked.
 - (iv) Completed claim forms together with copies of attendance registers and approved memorandum should be submitted to Salaries Department for calculation and verification prior to processing.
 - (v) Line Management to keep copies of claims submitted for record purposes
 - (vi) Only duty in excess of normal hours of attendance authorized by the department may be considered for overtime remuneration.
 - (vii) Where payment for overtime is an agreed upon method of remuneration, budgetary provisions must have been made to authenticate such payment. Line Function as well as HR Managers

shall be responsible for ensuring that an overtime authorization application is accompanied by proof of availability of funds.

- (viii) In cases where there are no funds for the payment of overtime, parties may agree on the time off principle instead of remuneration.
 - (xi) Overtime must be paid up to the maximum notch of level 8 therefore employees above this notch should not be calculated at their notch.
- 5.7.8. No catering must be provided during overtime, therefore employees should provide food for themselves unless overtime was due to unforeseen circumstances.

5.8. Overtime Calculation:

5.8.1. Overtime rates for Sunday and during the night are calculated according to the following formula:
$$2 \times T$$

5.8.2. Overtime rates at other times are calculated according to the following formula:
$$\frac{4}{3} \times T$$

5.8.3. T is calculated as follows:
$$T = \frac{A}{365} \times \frac{T}{B} \times 1$$

Where:

- (a) A is equal to the of the salary notch of the employee concerned or if the overtime duty is performed on a working level lower than the normal working level of the individual concerned, the maximum salary notch of the salary grading attached to the post class that is representative of the lower working level and
- (b) B is equal to the weekly number of hours of attendance prescribed for the employee.

5.8.4. The compensation for overtime work performed on a Sunday or a Public Holiday is calculated according to the following formula:
$$C \times 2 \times T$$

Where:

- (a) C is equal to the number of overtime hours worked
- (b) T is calculated as follows:

$$T = \frac{A \times 7 \pm B}{365}$$

Where:

- (c) A is equal to the smallest of the basic salary of the employee, or if the overtime duty is performed on a working level lower than the normal working level of the individual concerned, the maximum salary grading attached to the post class that is representative of the lower working level.
- (d) B is equal to the weekly number of hours of attendance prescribed for the employee.
- (e) C is equal to the number of overtime hours worked.

NB: Refer to Part 3 of the Determination on working time in the Public Service (2007) regarding the above calculations.

5.9. Exceptional Circumstances:

5.9.1. The employer must, except under emergency conditions performed by essential services, not require or permit the employee to work more than three hours overtime a day and 10 hours overtime a week.

6. APPROVING AUTHORITY:

6.1. Authorization is in terms of Section 3 (3) (c) , read with section 5 (4) of the Public Service Act, 1994 as amended and Part V D.2 of the Public Service Regulations, 2001, as amended.

- 6.2. The Head of Department shall grant request for overtime provided a written memorandum is submitted in advance and when the following conditions are met:
- (i) Temporary increase in the volume of work as a result of targets to be met in accordance to the department's service delivery programme or as a result of projects and programmes emanating from the department's strategic plan;
 - (ii) Unforeseen and sudden shortage of staff occasioned by unavoidable absenteeism, such as sick leave or injury on duty of employees, etc; and
 - (iii) Under emergency conditions when overtime is performed by essential services as defined in terms of the Labour Relations Act, 1996 an example in the department will be Disaster Management officials.
- 6.3. In determining overtime and working hours, the HOD should take into account the following:
- (i) The needs of the public in the context of the department's service delivery improvement programme; and
 - (ii) The needs and circumstances of employees, including family obligations, transport arrangements and only other relevant factors of employees.

7. ADMINISTRATION OF THE POLICY:

7.1. The Head of Department (HOD) shall be a responsible person for administering and enforcing this policy.

8. ACCOUNTABILITIES AND RESPONSIBILITIES:

The following are roles and responsibilities of the following stakeholders:

8.1. The Head of Department: shall determine:

- 8.1.1 The working week and daily hours of work for employees; and
- 8.1.2. The opening and closing times of places of work under her or his control, taking into account:
 - (i) The needs of the public in the context of the department's service delivery improvement programme; and
 - (ii) The needs and circumstances of employees, including family obligations and transport arrangements. Refer to Part 6 of the Public Service Regulations.

8.2. Human Resource Management:

- (i) Giving guidance on the implementation of the policy.

8.3. Financial Accounting Services:

- (ii) Calculating and processing of payment.

8.4. Line Managers:

- (i) Determining the necessity to perform overtime and supervise the process.

9. EFFECTIVE DATE OF THE POLICY:

9.1. The policy shall be effective from the date of its approval.

10. PROCEDURES FOR IMPLEMENTATION:

10.1. The guideline as stipulated in this policy will followed as a procedure for implementation.

11. MONITORING ARRANGEMENTS

11.1. The Head of Department (HOD) shall be responsible for the continuous administration and monitoring of this policy and any inputs or amendments to this policy document can be directed to him/her (HOD) in writing.

12. REVIEW OF THE POLICY

12.1. This policy will be reviewed whenever a need arises e.g. a change in legislation or national mandate has been given or otherwise after three (3) years from the date of its approval.

13. POLICY RECOMMENDATION AND APPROVAL

Recommended/ ~~Not Recommended~~



Head of Department: Dept. of Social
Development & Special Programmes

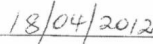


Date

Approved/ ~~Not Approved~~



MEC: Dept. of Social Development &
Special Programmes



Date

APPENDICES
Monitoring Tools

SURNAME	DATE	DAY	SHIFT WORKED	ACTUAL HRS WORKED	NORMAL HRS	ABNORMAL HRS	REMARKS
PERSONAL NO.		SUN					
SALARY P.A.		MON					
OVERTIME DUTIES PERFORMED ON:		TUE					
		WED					
		THUR					
		FRI					
		SAT					
OVERTIME TARIFF							
Normal		SUN					
[]		MON					
HRS @ Tariff	= R.....	TUE					
Abnormal		WED					
[]		THUR					
HRS @ Tariff	= R.....	FRI					
		SAT					
		SUN					
		MON					
		TUE					
		WED					
		THUR					
		FRI					
		SAT					
		SUN					
		MON					
		TUE					
FORMULAE FOR OVERTIME RATE							
Normal: => R174. 117*/365*/40*1,5							
Abnormal: =>R174. 117*/365*/40*2							
NB: Maximum Notch is R174 117							
SURNAME & INITIALS:							
SIGNATURE:							
DATE:							
			TOTALS				
			CHECKED BY: SUPERVISOR	VERIFIED BY: SALARIES		CERTIFIED CORRECT: PRE-AUDIT	
APPLICANT							

OVERTIME REGISTER

COMPONENT:

PERIOD:

NAME	PERSAL NO.	DATE	TIME IN	TIME OUT	NO. OF HRS	SIGNATURE
Supervisor:		Date:	Signature:			