



**the dpsa**

**Department:  
Public Service and Administration  
REPUBLIC OF SOUTH AFRICA**

Private Bag X916, PRETORIA, 0001 Tel: (012) 336 1000, Fax (012) 326 7802  
Private Bag X9148, Cape Town, 8000. Tel: (021) 467 5120, Fax (021) 465 5484

Enquiries : Ms CM Sekgoele  
Telephone nr : (012) 336 1024  
Reference nr : 17/8/R

## **TO ALL HEADS OF NATIONAL AND PROVINCIAL DEPARTMENTS**

### **COMPENSATION FOR ORDINARY WORK AND/OR OVERTIME WORK ON PUBLIC HOLIDAYS**

1. In terms of section 2(1) of the Public Holidays Act, 1994 the days mentioned in Schedule 1 to the Act shall be public holidays, and whenever a public holiday falls on a Sunday, the following Monday shall be a public holiday. Section 5(1) of the Act continues to stipulate that every employee shall be eligible to at least the number of public holidays listed in Schedule 1 of the Act. It further determines that the employees shall be eligible for payment for each of the public holiday at least as favourable as the pay contemplated in the Basic Conditions of Employment Act.
2. As you will recall, one of the objectives of PSCBC Resolution 1 of 2007 was to provide for alignment of the Public Service with the requirements of the Basic Conditions of Employment Act, 1997 and matters incidental thereto. This resulted in the current arrangement contained in par. 3 of Part II of the Determination on Working Time, read with clause 9.7 of the PSCBC Res. 1 of 2007. An employee in the Public Service who ordinarily work on a public holiday receives-
  - 2.1 his/her salary for the day; and
  - 2.2 if rostered for a shift on a public holiday, the employee receives the additional pay as per par. 3/Part II of the Determination on Working time; and/or
  - 2.3 If the employee has to perform overtime work on such a public holiday, overtime at double his/her hourly wages, as per par. 1/Part III of the Determination on Working Time.
3. Case Law dated 2006 and 2007, respectively, in the case of Randfontein Estates vs NUM (2006) in the Labour Court and (2007) in the Labour Appeal Court was brought to the DPSA.s attention during the second half of August 2009. The Court in both instances ruled that both the Monday and the Sunday be deemed to be public holidays.

Staatsdiens en Administrasie . Ditirelo tsa Puso le Tsamaiso . Ditshebeltso tsa Mmuso le Tsamaiso . uMnyango wemiSebenzi kaHulumeni nokuPhata

Muhasho wa Tshumelo ya Muvuso na Vhulanguli . Kgoro ya Ditirelo tša Mmušo . Ndzawulo ya Vutirela-Mfumo na Valawuri

LiTiko le Tebasebenti baHulumende nekuPhatsa . ISebe leNkonzo kaRhulumente noLawulo . UmNyango wemiSebenzi kaRhulumente nokuPhata

4. In light of this important ruling on this application of the Holidays Act, in so far as additional compensation for ordinary work and/or overtime work on a public holiday is concerned, the Minister of Public Service and Administration determined with effect from 15 November 2007 (the date of the court ruling) that the definition of public holiday depicted in paragraph 4.5 of Part I of the Determination on Working Time, read with clause 9.7 of the PSCBC Resolution 1 of 2007, be amended to be in line with the interpretation of a public holiday within the context of the Public Holidays Act, 1994.
5. The Determination on Working Time has been amended accordingly and is attached for ease of reference. The Determination will also be available on the DPSA's web-site: [www.dpsa.gov.za](http://www.dpsa.gov.za).
6. Approval has been obtained from National Treasury under reference 8/6/3/1/4 dated 16 November 2010, provided that the additional expenditure arising from this determination should be defrayed from existing departmental budget allocations.

  
For **ACTING DIRECTOR-GENERAL**

DATE: 24 November 2010



**DETERMINATION ON WORKING TIME  
IN THE  
PUBLIC SERVICE**

**JULY 2010**

**MADE BY THE MINISTER FOR PUBLIC SERVICE AND  
ADMINISTRATION**



---

## **TABLE OF CONTENTS**

### **PART I: GENERAL**

	<b>PAGE</b>
1. AUTHORISATION	3
2. SCOPE OF APPLICATION	3
3. COMMENCEMENT DATE	3
4. DEFINITIONS	3

### **PART II: ORDINARY HOURS OF WORK**

1. AVERAGING OF WORKING HOURS	4
2. PAY FOR ORDINARY WORK ON SUNDAY	4
3. PAY FOR ORDINARY WORK ON PUBLIC HOLIDAYS	4
4. NIGHT WORK	5

### **PART III: OVERTIME WORK**

1. CALCULATION FOR OVERTIME PAY	6
1.1. BASIC SALARY FOR CALCULATION OF OVERTIME	6
1.2. CALCULATION OF COMPENSATION FOR OVERTIME WORK PERFORMED ON A SUNDAY OR PUBLIC HOLIDAY	6
1.3. CALCULATION OF COMPENSATION FOR NORMAL OVERTIME WORK	7
1.4. COMMUTED OVERTIME	7



## **PART I: GENERAL**

### **1. AUTHORISATION**

- 1.1. This Determination is made in terms of section 3(3)(c), read with section 5(4) of the Public Service Act, 1994, by the Minister for the Public Service and Administration.
- 1.2. The Determination on Working Time must be read and applied in conjunction with the Basic Conditions of Employment Act (BCEA), the current Public Service Regulations, prevailing collective agreements and departmental policies on working time.

### **2. SCOPE OF APPLICATION**

- 2.1. This Determination applies to the employer and the employees who -
  - 2.1.1. are employed in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994); and
  - 2.1.2. fall within the registered scope of the Public Service Coordinating Bargaining Council (PSCBC).

### **3. COMMENCEMENT DATE**

This Determination takes effect on 1 July 2007.

### **4. DEFINITIONS**

In this Determination, unless the context indicates otherwise -

- 4.1. "basic salary" means the actual salary notch of the employee but not higher than a basic annual salary of R 174 117 per annum;
- 4.2. "BCEA" means the Basic Conditions of Employment Act, 1998, as amended;
- 4.3. "day" means a period of 24 hours measured from the time when the employee normally commences work, and daily has corresponding meaning;
- 4.4. "overtime" means works in excess of the hours of work per day/week or month that an employee has contracted to perform;
- 4.5. "public holiday" means a public holiday listed in Schedule 1 of the Public Holidays Act, 1994 (Act 36 of 1994), including the Monday following a public holiday that falls on a Sunday as contemplated in section 2(1) of the said Act; and
- 4.6. "week" in relations to the employee means the period of seven days within which the working week of that employee ordinarily falls.



## **PART II: ORDINARY HOURS OF WORK**

### **1. AVERAGING OF WORKING HOURS**

- 1.1. The mechanisms and conditions for the averaging of working hours shall, where required, be determined in respective sectoral bargaining councils.
- 1.2. It is advisable to consider the guidelines contained in the attached Code of Good Practice on Working Time in the design of a shift system/roster.

### **2. PAY FOR ORDINARY WORK ON A SUNDAY**

- 2.1. If an employee is required to work an ordinary shift on a Sunday, the Executing Authority must pay the employee for such ordinary work on a Sunday 1.5 x the employee's basic salary. In other words, the category of staff concerned is shift workers who in terms of their shift rosters have to perform their ordinary work on a Sunday.
- 2.2. The **additional pay** due to the above-mentioned employees must be calculated according to the following formula:

$$[A \div 2 \times B] \div 365$$

Where -

A is equal to the basic salary notch per annum of the employee concerned.

B is equal to the number of Sundays the employee ordinarily worked in a month.

- 2.3. If the shift worked by the employee falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless, the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

### **3. PAY FOR ORDINARY WORK ON PUBLIC HOLIDAYS**

- 3.1. If a Public Holiday falls on a day which an employee ordinarily works the Executing Authority must pay the employee 2 x his or her basic salary, without the option of granting time-off. In other words, the category of staff concerned is shift workers who in terms of their shift rosters have to perform their ordinary work on a Public Holiday.
- 3.2. The **additional pay** due to the above-mentioned employees must be calculated according to the following formula:

$$[A \div 1 \times B] \div 365$$

Where-



---

**A** is equal to the basic salary notch per annum of the employee concerned.

**B** is equal to the number of Public Holidays the employee ordinarily worked in a month.

**3.3.** If the shift worked by an employee falls on a Public Holiday and another day, the whole shift shall be 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 shall be deemed to have been worked on the other day.

#### **4. NIGHT WORK**

**4.1.** Night work in the Public Service shall be deemed to be work performed between 19:00 to 07:00 the next day or 18:00 to 06:00 the next day by agreement between parties in the relevant bargaining council/chamber, taking into consideration the Department's operational requirements.



## PART III: OVERTIME WORK

### 1. CALCULATION OF OVERTIME PAY

#### 1.1. BASIC SALARY FOR CALCULATION OF OVERTIME

The basic salary for the calculation of overtime worked shall be the actual salary notch of the employee, provided that it shall not be higher than a basic salary of R174 117 per annum. This amount will be increased by the percentage of the annual general salary adjustment with effect from 1 July of each year, commencing 1 July 2007. This provision excludes employees on commuted overtime.

#### 1.2. CALCULATION OF COMPENSATION FOR OVERTIME WORK PERFORMED ON A SUNDAY OR PUBLIC HOLIDAY

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 –

C is equal to the number of overtime hours worked

T is calculated as follows:

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

Where –

A is equal to the smallest of the basic salary of the employee, **as defined in paragraph 1.1. above**, 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.

B is equal to the weekly number of hours of attendance prescribed for the employee

C is equal to the number of overtime hours worked





### 1.3. CALCULATION OF COMPENSATION FOR NORMAL OVERTIME WORK

The compensation for normal overtime is calculated according to the following formula:

$$C \times 1.5 \times T$$

T is calculated as follows:

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

Where -

A is equal to the smallest of the basic salary of the employee, **as defined in paragraph 1.1 above**, 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.

B is equal to the weekly number of hours of attendance prescribed for the employee

C is equal to the number of overtime hours worked

### 1.4 COMMUTED OVERTIME

Employees receiving commuted overtime are excluded from the provisions contained in paragraphs 1.1 to 1.3, above. The *status quo*, prior to 1 July 2007, regarding the payment of commuted overtime pay and excess overtime hours in the Health and Welfare Sector, remains the same.