



SAEFA

SA ENGINEERS AND
FOUNDERS ASSOCIATION

Short-Time Provisions and their Effective Implementation during Loadshedding

Clause 15 of the TCOE Agreement:

*'Short-time' means the implementation of reduced working time, i.e. fewer number of hours per day and/or fewer number of days per week, owing to a shortage of work and/or materials **and any other justifiable contingencies including planned load shedding and/or unforeseen contingencies and/or circumstances beyond the control of the employer.***

Loadshedding:

In any unforeseen circumstances, such as load-shedding, the usual five calendar days' notice requirement does not apply. In circumstances where it is not possible to give the requisite 5 days' notice, employees must receive a minimum of **four hours** pay.

- Clause 15 of the TCOE agreement further provides:
 - o Where the employer elects to send employees home they shall receive not less than four hours' work or pay in lieu thereof, in respect of such day. In other words, if the employer experiences load shedding and decides to send its employees home as a result, the employees will be paid a minimum of four hours for the day.
 - o Where the employer believes work can resume and expressly instructs his/her employees to present themselves for employment on a particular day, they shall receive not less than four hours' work or pay in lieu thereof, in respect of such day (it should also be noted that where an employer requests that its employees wait at work until the power returns, that time spent waiting will be paid).

- It may be argued that the load shedding schedules and apps (such as "Eskom se Push) provide employers with more certainty regarding power outages which should enable management to plan short time in accordance with the five calendar days' notice requirements. However, it is trite that Eskom is unable to provide anywhere near five calendar days' notice of load shedding and the level of implementation on any given day. This means that all load shedding should be regarded as unforeseen and can be dealt with as such - on four hours' notice to the employees.

Short time and the effect on shift accumulation

Short shifts worked by employees whilst an employer has implemented short-time count as shifts actually worked when calculating shift accumulation. Clause 19 of the TCOE Agreement provides as follows:

- Employees working *24 hours or more* (spread over 3 or 4 days) per week:
 - o Full shifts for the first 3 months; thereafter:
 - o The shifts that they actually work, *plus 1*.
- Employees working less than 24 hours per week:
 - o Only the shifts actually worked