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Working In Time Arrangements and Public Holidays – What Does the Main Agreement Require?

Wednesday the 9th of August is the paid public holiday, Women's Day. With a public holiday falling right in the middle of the week, it can be very disruptive for companies. Consequently, you may wish to swap the public holiday on the Wednesday for another day, such as Friday the 11th or Monday the 14th. This form of working time in, in exchange for extending long weekends created by the public holidays, is dealt with under section 38 of the Main Agreement and essentially allows for two things:

1. An arrangement to work-in time on a shift or shifts not ordinarily worked by such employees in order to achieve the paid extension of:
 - a. Any public holiday; or
 - b. A period not ordinarily worked by the employees; or
 - c. The annual shutdown period.
2. An arrangement to close an establishment during any period of work specified as normal working hours for that establishment.

In order to implement either of the abovementioned plans, the employer need the support of at least 75% of the employees, which may be obtained by means of holding a company ballot.

38. WORKING-IN TIME ARRANGEMENTS

(1) For purposes of this clause 'employees covered by this Agreement' shall, in addition to all scheduled employees, include employees referred to in subclauses (4) and (5) of clause 1 of Part I of this Agreement.

(2) An employer, with the support of not less than 75% of his employees covered by this Agreement, obtained via a ballot, may enter into an arrangement to work in time in order to achieve the extension with pay of—

- (a) any paid holiday provided for in clause 11 of this Agreement; or
- (b) periods not ordinarily worked by employees; or
- (c) the annual shutdown period provided for in clause 16 of this Agreement.

(3) An employer, subject to the ballot arrangement referred to in subclause (2), may enter into an arrangement to close his establishment—

- (a) on any ordinary working day; or
- (b) for any period of work forming part of any ordinary working day.

(4) Where arrangements to work in time, as referred to in subclause (2) or (3), are entered into such arrangements shall not include working in time on Sundays.

(5) Where employment terminates before the date for which time had been worked in, in terms of subclause (2) or (3), all hours so worked shall be deemed to be overtime hours subject to payment at the appropriate overtime rate applicable.

(6) Time worked in by employees in terms of subclause (2) or (3) shall count towards leave pay and/or leave enhancement pay entitlements as provided for in clauses 12 to 14.

(7) Where such working-in time arrangements are entered into the employer shall notify the Regional Council concerned thereof within 14 days of such decision, specifying—

- (a) the outcome of the ballot;
- (b) the day/days for which time will be worked in;
- (c) the day/days on which such time will be worked in.



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The periods highlighted above count towards the employee's qualification for the purposes of both Leave Pay and Leave Enhancement Pay.

Where an employee's services terminate before the implementation of the agreed working-in time arrangement, payment for all time worked outside of normal working hours of work in respect of this arrangement will be made in accordance with the appropriate overtime rates, i.e. 1,5X the normal hourly rate for hours worked before or after normal hours during the week or on Saturdays, and 2X the normal hourly rate for time worked on Sunday.

Please note that an employer must advise the Regional Council and the parties concerned, i.e. the employee representatives and, if applicable, their representative trade unions, of the outcome of the company ballot where any of the above arrangements are to be implemented.

For assistance with the payment of public holidays or any other query, please contact SAEFA.