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Dealing with Payment for Employees in Respect of Freedom Day – What Does the Main Agreement Require?

This coming Saturday, 27 April, is Freedom Day, one of the 12 paid public holidays observed nationwide. This brief serves to assist members with calculating payment for scheduled employees who work on this day, in order to allow for proper planning and avoid unnecessary disagreements about payment after the fact.

Payment for public holidays is regulated by section 11 of the Main Agreement. Of particular importance, is subsection (d) below:

11. PAYMENT FOR PUBLIC HOLIDAYS

(1)

- (a) If an employee does not work on a public holiday that falls on a day which otherwise is an ordinary working day for such an employee, including periods of short time and lay-offs, he shall be paid at his ordinary rate for the ordinary working hours of that day of the week.
- (b) If an employee works on a public holiday which falls on a day which otherwise is an ordinary working day for such an employee, he shall be paid for the number of hours payable in terms of subclause (1)(a) and shall, in addition, be paid at one and one-third times the hourly rate for time worked up to the said number of hours. Thereafter he shall be paid two and a half times the hourly rate until the usual starting time of the next day.
- (c) If an employee works on a public holiday that falls on a Sunday, he shall be paid in accordance with the provisions of clause 5 of this Agreement which relates to payment for time worked on Sundays. Notwithstanding the provisions of this subclause time worked on a Christmas Day which falls on a Sunday shall be paid in terms of subclause (1)(d) of this clause.
- (d) If an employee works on a public holiday which falls on a day which otherwise is not an ordinary working day for such an employee, he shall be paid an amount which shall be not less than the wage payable to such an employee in respect of the time which is ordinarily worked by him on a working day and shall, in addition, be paid at one and one-third times the hourly rate for time worked up to the said number of hours. Thereafter he shall be paid two and a half times the hourly rate until the usual starting time of the next day.**

- (2) The provisions of subclause (1)(b) shall not apply in establishments working a two and three shift system in respect of the hours worked on a public holiday which forms part of the normal shift: Provided that the normal shift immediately prior or subsequent to that on which such hours have been worked shall be regarded as the public holiday to which the provisions of this clause shall apply.
- (3) For the purposes of this clause, the ordinary hourly rate of employees employed on incentive bonus work shall be the hourly rate for the class of work scheduled in this Agreement.



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- Therefore, if the employees **do not** work on Freedom Day, they are **not entitled** to receive pay for that day.
- If the employees **do** work on Freedom Day, they are entitled to be paid the hours of a normal shift (8 hours for a five-day week worker) pay plus 1.33 x the normal hourly rate for the hours worked. For example, an employee earning R50 per hour who has worked for 8 hours on Freedom Day will receive 8 hours at the ordinary rate, i.e. R400, plus 8 hours at 1.33 x the ordinary rate, i.e. R532. Therefore, the employee will earn a total of R932 for the day.
- If the employees worked beyond the normal hours of a shift, then they are entitled to be paid 2.5 x the hourly rate for the overtime hours, over and above the hours in the second bullet point immediately above. For example, an employee earning R50 per hour who has worked for 10 hours on Freedom Day will receive 8 hours at the ordinary rate, i.e. R400, plus 8 hours at 1.33 x the ordinary rate, i.e. R532, plus 2 hours at 2.5 x the ordinary rate, for a total of R1 182.

NB: The fact that the employees may not ordinarily work on a Saturday DOES NOT mean that they are entitled to overtime rates, plus public holiday rates. The fact that Saturday is Freedom Day, means that public holiday rates overrule the overtime rates. This means that it may be less costly to have the employees work additional hours during the week, or even on Sunday (which will be paid at 2X the hourly rate) depending on the hours required to be worked.

Finally, please note that if an employee who committed to working on the Saturday and is then absent without permission on the day, he/she may be disciplined for a day of unauthorised absenteeism.

Please contact us with any queries regarding the above.