



WEEKLY LABOUR BULLETIN

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HOURS OF WORK & OVERTIME

INTRODUCTION

Any employee has a maximum number of hours that they are supposed to work in a month, and the agricultural industry is no exception. The matter of hours of work has been misunderstood, as there has been a change in the number of hours that employees are supposed to work in a month. In section 7 of S.I 116 of 2014, herdsmen, watchmen, boilermen, firetower attendants, guards and caretakers had a maximum of 280 hours in a month, while all the other employees had a maximum of 208 hours. S.I 116 of 2014 has since been repealed by S.I 42 of 2022, meaning it is no longer in operation. In this bulletin, we will clarify the number of hours an employee must work in a month before it becomes overtime.

HOURS OF WORK

In terms of section 8 of Statutory Instrument 41 of 2022, the ordinary work for ALL EMPLOYEES shall not exceed two hundred and eight (208) hours per month. The word “shall” indicates that the particular provision is mandatory. Hence any work that is done over the stipulated working hours will be counted as overtime. The two hundred and eight (208) hours should take note of the fact that every employee shall receive at least one day off in each week.

This therefore means that herdsmen, watchmen, boilermen, firetower attendants, guards and caretakers are also included and they must not exceed 208 hours per month.

SHIFT WORK

According to the ILO (1990), working in shifts is **“a method of organisation of working time in which workers succeed one another at the workplace so that the establishment can operate longer than the hours of work of individual workers”** at different daily and night hours. The jobs of watchmen, boilermen, firetower attendants, guards and caretakers usually require shifts. When scheduling the shifts, care should be taken to ensure that the 208 hours are adhered to, and if it is not possible, then overtime should be paid.

TASK WORK SYSTEM

According to S.I 41 of 2022, task work system means the system of employment wherein the employer sets tasks which the employees are expected to complete within their working hours and provides the employees



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with further remuneration for completion, within those working hours, of other tasks in addition to the set tasks. . It is important to note that this system is based on the hours that an employee is supposed to work in a day, and the tasks that they are given are supposed to be completed within the working hours. If employees finish those tasks and complete additional tasks within the same working hours, they are paid extra for the additional work.

TICKET SYSTEM

The Ticket System, according to S.I 41 of 2022, means the system of employment wherein remuneration of employees is not based on the time which the employees have tendered their service to the employer, but is based on the completion of tasks allocated by the employer. This system is not allowed according to section 14 (3) of S.I 41 of 2022. Therefore, farmers must not use this type of system on their farm.

SHORT-TIME WORKING

Short-time working is governed by section 9 of S.I 41 of 2022, where employees do not work the normal working hours, but reduced working hours. This is usually done as one of the measures to avoid retrenchment as stipulated in section 12D of the Labour Act. However, in the agriculture industry, an employer must get approval from the NEC first before embarking on this measure. The measure must not exceed 12 months, and no employee shall receive less than 60% of their weekly wage.

OVERTIME

Overtime means any time worked outside the ordinary hours of work required in terms of section 8 of S.I 41 of 2022. If an employer requires an employee to work overtime, they shall request and not require the employee to work overtime in which case they must give where possible the employee twenty-four (24) notice of such request. However, the employee shall not decline requests to work overtime in emergency cases without reasonable excuse.

PAYMENT FOR OVERTIME

When an employee works overtime, they will be entitled to a different rate for the normal working hours as stipulated in section 11 of S.I 41/22, and below are the rates and the circumstances when an employee will be paid overtime:

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1. When they are required to work on their day off, the employer shall double the employee's current wage.
2. If it is on a public holiday, the rate will be two and a half times the current hourly wage of the employee.
3. If it is overtime for the ordinary monthly hours of work, the employer shall pay overtime at one and a half times the employee's current wage.

CONCLUSION

It is important for an employer to observe the provisions above as failing to do so will amount to an unfair labour practice which opens the farmer to litigation and reduced morale by employees thereby reducing productivity.

Disclaimer: This article is issued to serve as a general guide to farmers and does not substitute legal advice that may be required to address a particular situation with peculiar circumstances.