

(2) Sections 9, 10(1), 14(1), 15(1), 17(2) and 18(1) do not apply to work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work.

(3) The Minister must, on the advice of the Commission, make a determination that excludes the application of this Chapter or any provision of it to any category of employees earning in excess of an amount stated in that determination. 5

(4) Before the Minister issues a notice in terms of subsection (3), the Minister must—

- (a) publish in the *Gazette* a draft of the proposed notice; and
- (b) invite interested persons to submit written representations on the proposed notice within a reasonable period. 10

Regulation of working time

7. Every employer must regulate the working time of each employee—

- (a) in accordance with the provisions of any Act governing occupational health and safety; 15
- (b) with due regard to the health and safety of employees;
- (c) with due regard to the Code of Good Practice on the Regulation of Working Time³ issued under section 87(1)(a); and
- (d) with due regard to the family responsibilities of employees.

Interpretation of day 20

8. For the purposes of sections 9, 10 and 11, "day" means a period of 24 hours measured from the time when the employee normally commences work.

Ordinary hours of work

9. (1) Subject to this Chapter, an employer may not require or permit an employee to work more than— 25

- (a) 45 hours in any week; and
- (b) nine hours in any day if the employee works for five days or fewer in a week; or
- (c) eight hours in any day if the employee works on more than five days in a week.

(2) An employee's ordinary hours of work in terms of subsection (1) may by agreement be extended by up to 15 minutes in a day but not more than 60 minutes in a week to enable an employee whose duties include serving members of the public to continue performing those duties after the completion of ordinary hours of work. 30

(3) Schedule 1 establishes procedures for the progressive reduction of the maximum ordinary hours of work to a maximum of 40 ordinary hours of work per week and eight ordinary hours of work per day. 35

Overtime

10. (1) Subject to this Chapter, an employer may not require or permit an employee—

- (a) to work overtime except in accordance with an agreement;
- (b) to work more than— 40
 - (i) three hours' overtime a day; or
 - (ii) ten hours' overtime a week.

(2) An employer must pay an employee at least one and one-half times the employee's wage for overtime worked.

(3) Despite subsection (2), an agreement may provide for an employer to— 45

3. The Code of Good Practice issued by the Minister of Labour under section 87(1)(a) will contain provisions concerning the arrangement of work and, in particular, its impact upon the health, safety and welfare of employees. Issues that would be included are shift work, night work, rest periods during working time, family responsibilities and work by children.

(2) Artikels 9, 10(1), 14(1), 15(1), 17(2) en 18(1) is nie van toepassing nie op werk wat sonder versuim gedoen moet word as gevolg van omstandighede waarvoor daar nie redelikerwys van die werkgever verwag kon word om voorsiening te maak nie en wat nie gedurende hulle gewone werkure deur werknemers verrig kan word nie.

5 (3) Die Minister moet, op advies van die Kommissie, 'n vasstelling doen om die toepassing van hierdie Hoofstuk of enige bepaling daarvan op enige kategorie werknemers wat meer verdien as 'n bedrag in daardie vasstelling vermeld, uit te sluit.

(4) Alvorens die Minister 'n kennisgewing ingevolge subartikel (3) uitreik, moet die Minister—

- 10 (a) 'n konsep van die beoogde kennisgewing in die *Staatskoerant* publiseer; en
 (b) belanghebbende persone uitnooi om binne 'n redelike tydperk skriftelike vertoë oor die beoogde kennisgewing voor te lê.

Reëling van werktyd

7. Elke werkgever moet die werktyd van elke werknemer reël—

- 15 (a) ooreenkomstig die bepalings van enige Wet wat beroepsgesondheid en -veiligheid reël;
 (b) met behoorlike inagneming van die gesondheid en veiligheid van werknemers;
 20 (c) met behoorlike inagneming van die Goeie Praktykkode oor die Reëling van Werktyd³ ingevolge artikel 87(1)(a) uitgereik; en
 (d) met behoorlike inagneming van werknemers se gesinsverantwoordelikhede.

Uitleg van dag

8. Vir die doeleindes van artikels 9, 10 en 11 beteken "dag" 'n tydperk van 24 uur bereken vanaf die tyd wanneer die werknemer gewoonlik begin werk

25 Gewone werkure

9. (1) Behoudens hierdie Hoofstuk mag 'n werkgever nie van 'n werknemer vereis of hom of haar toelaat om meer as—

- (a) 45 uur in 'n week te werk nie; en
 30 (b) nege uur op 'n dag te werk nie indien die werknemer op vyf dae of minder in 'n week werk; of
 (c) agt uur op 'n dag te werk nie indien die werknemer op meer as vyf dae in 'n week werk.

(2) 'n Werknemer se gewone werkure ingevolge subartikel (1) kan by ooreenkoms verleng word met tot 15 minute op 'n dag maar met hoogstens 60 minute in 'n week,
 35 ten einde 'n werknemer wie se pligte insluit om lede van die publiek te bedien, in staat te stel om na die voltooiing van gewone werkure voort te gaan om daardie pligte te verrig.

(3) Bylae 1 stel prosedures in vir die progressiewe vermindering van die maksimum gewone werkure tot 'n maksimum van 40 gewone werkure per week en agt gewone
 40 werkure per dag.

Oortyd

10. (1) Behoudens hierdie Hoofstuk mag 'n werkgever nie van 'n werknemer vereis of hom of haar toelaat om—

- (a) oortyd te werk nie, behalwe ooreenkomstig 'n ooreenkoms;
 45 (b) meer oortyd te werk nie as—
 (i) drie uur op 'n dag; of
 (ii) tien uur in 'n week.

(2) 'n Werkgever moet aan 'n werknemer vir enige oortyd gewerk een en 'n half maal die werknemer se loon betaal.

50 (3) Ondanks subartikel (2) kan 'n ooreenkoms bepaal dat 'n werkgever aan—

3. Die Goeie Praktykkode uitgereik kragtens artikel 87(1)(a) deur die Minister van Arbeid sal bepalings bevat betreffende die reëling van werk en, in die besonder, die uitwerking daarvan op die gesondheid, veiligheid en welsyn van werknemers. Aangeleenthede wat ingesluit sal word, is skofwerk, nagwerk, rustye gedurende werktye, gesinsverantwoordelikhede en werk deur kinders.

- (a) pay an employee not less than the employee's ordinary wage for overtime worked and grant the employee at least 30 minutes' time off on full pay for every hour of overtime worked; or
- (b) grant an employee at least 90 minutes' paid time off for each hour of overtime worked.

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(4) (a) An employer must grant paid time off in terms of subsection (3) within one month of the employee becoming entitled to it.

(b) An agreement in writing may increase the period contemplated by paragraph (a) to 12 months.

(5) An agreement concluded in terms of subsection (1) with an employee when the employee commences employment, or during the first three months of employment, lapses after one year.

Compressed working week

11. (1) An agreement in writing may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of section 14, without receiving overtime pay.

(2) An agreement in terms of subsection (1) may not require or permit an employee to work—

- (a) more than 45 ordinary hours of work in any week;
- (b) more than ten hours' overtime in any week; or
- (c) on more than five days in any week.

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Averaging of hours of work

12. (1) Despite sections 9(1) and (2) and 10(1)(b), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a collective agreement.

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(2) An employer may not require or permit an employee who is bound by a collective agreement in terms of subsection (1) to work more than—

- (a) an average of 45 ordinary hours of work in a week over the agreed period;
- (b) an average of five hours' overtime in a week over the agreed period.

(3) A collective agreement in terms of subsection (1) lapses after 12 months.

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(4) Subsection (3) only applies to the first two collective agreements concluded in terms of subsection (1).

Determination of hours of work by Minister

13. (1) Despite this Chapter, the Minister, on grounds of health and safety, may prescribe by regulation the maximum permitted hours of work, including overtime, that any category of employee may work—

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- (a) daily, weekly or during any other period specified in the regulation; and
- (b) during a continuous period without a break.

(2) A regulation in terms of subsection (1) may not prescribe maximum hours in excess of those permitted in sections 9 and 10.

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(3) A regulation in terms of subsection (1) may be made only—

- (a) on the advice of the chief inspector appointed in terms of section 27 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), or the chief inspector appointed in terms of section 48 of the Mine Health and Safety Act, 1996 (Act No. 29 of 1996); and
- (b) after consulting the Commission.

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Meal intervals

14. (1) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.

(2) During a meal interval the employee may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another employee.

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