

(20 July 2001 – to date)

BASIC CONDITIONS OF EMPLOYMENT ACT 75 OF 1997

(Gazette No. 18491, Notice No. 1631. Commencement date: 1 December 1998)

MINISTERIAL DETERMINATION: WELFARE SECTOR, SOUTH AFRICA

Government Notice 655 in Government Gazette 22466, dated 20 July 2001. Commencement date:
20 July 2001

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 50 of the Basic Conditions of Employment Act, 1997, make a Ministerial Determination establishing conditions of employment for employers and employees in the Welfare Sector, South Africa, in the Schedule hereto and determine the date of publication of this notice as the date from which the provisions of the said Ministerial Determination shall become binding.

M M S MDLADLANA

Minister of Labour

SCHEDULE

MINISTERIAL DETERMINATION: WELFARE SECTOR, SOUTH AFRICA

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1. Definitions

1.1 In this determination-

"**welfare sector**" means employers, excluding the state as an employer, who render non-profit social services in South Africa.

1.2 "**working time**" means time actually worked excluding standby periods.

Prepared by:

2. Application

- 2.1 This determination applies to all employers and employees engaged in the welfare sector.
- 2.2 To the extent provided for in this determination, this determination varies the application of the Basic Conditions of Employment Act, No. 75 of 1997, to such employers and their employees.
- 2.3 Unless otherwise indicated, any word used in this determination has the same meaning as in the Basic Conditions of Employment Act, No. 75 of 1997.

3. Overtime

- 3.1 Despite section 10(1)(b)(ii) of the Basic Conditions of Employment Act, No. 75 of 1997, an employer may not require or permit an employee to work more than fifteen hours overtime in a week.
- 3.2 An agreement may provide for an employer to pay the ordinary wage for overtime worked and grant an additional weeks *[sic]* leave on full pay per annum.

4. Averaging of hours

- 4.1 Despite sections (9)(1) and (2) and 10(1)(b) of the Basic Conditions of Employment Act, No. 75 of 1997 and clause 3 of this determination, 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 written agreement concluded by an employer and an employee.
- 4.2 An employer may not require or permit an employee who is bound by an agreement in terms of sub-clause 1 to work more than-
 - (a) an average of forty-five ordinary hours of work in a week over the agreed period;
 - (b) an average of ten hours overtime in a week over the agreed period.
- 4.3 An agreement in terms of sub-clause (1) lapses after twelve (12) months.
- 4.4 Sub-clause (3) only applies to the first two agreements concluded in terms of sub-clause (1).

5. Pay for work on Sundays

- 5.1 Despite section 16(1) of the Basic Conditions of Employment Act, No. 75 of 1997, an employer must pay an employee who works on Sunday the normal wage for each hour worked and be granted extra leave as follows:

- (a) employees who ordinarily work on a Sunday who work on average one Sunday per month be granted three additional days leave on full pay per annum;
- (b) employees who ordinarily work on a Sunday who work on average two Sundays per month be granted six additional days leave on full pay per annum.

6. Night work

- 6.1 Despite section 17(2)(a) of the Basic Conditions of Employment Act, No. 75 of 1997, an agreement in writing may permit an employee to waive his/her right to any payment of an allowance if the employee voluntarily request or prefer to work night shifts.

7. Standby employees

- 7.1 Employees who are regularly required to be on standby must be granted one additional week's leave per annum.

(All the provisions of the Ministerial Determination: Welfare Sector published under Government Notice R. 203 of 2 March 2001 will be cancelled by this Determination with effect from the date of publication)