



social development

Department:  
Social Development  
PROVINCE OF KWAZULU-NATAL

## **POLICY ON OVERTIME**

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## **1. INTRODUCTION**

The Employer is committed to the well being of its employees and would therefore implement sound human resource management strategies aimed at recognizing individual efforts towards service delivery. It is therefore necessary that the Employer formulates an overtime Policy in line with the provisions of the Department of Public Service and Administration.

## **2. PURPOSE**

The purpose of this Policy is to provide guidelines regarding overtime and the compensation for overtime worked.

## **3. OBJECTIVES**

The objectives of this Policy are to indicate:

- 3.1 the conditions under which the Employer shall provide compensation for overtime worked;
- 3.2 the kind of compensation the Employer shall provide; and
- 3.3 the categories of employees to whom the Employer shall not provide compensation for overtime.

## **4. SCOPE OF APPLICABILITY**

- 4.1 The Policy on Overtime applies to all employees of the KwaZulu-Natal Department of Social Development, who are employed in terms of the Public Service Act, 1994 (Proclamation No.103 of 1994), as amended.
- 4.2 This Policy is not applicable to employees who belong to the Senior Management Service (*salary level 13 and above*).

## **5. LEGISLATIVE FRAMEWORK**

- 5.1 The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- 5.2 Public Service Act, 1994 (Proclamation No. 103 of 1994), as amended;
- 5.3 Public Service Regulations 2001, (Government notice No. R1 of 2001), as amended;
- 5.4 PSCBC Resolution 3 of 1999;
- 5.5 PSCBC Resolution 1 of 2007;
- 5.6 Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), as amended;

- 5.7 Labour Relations Act, 1995 (Act No. 66 of 1995), as amended; and
- 5.8 Public Finance Management Act, 1999 (Act No. 1 of 1999), as amended.
- 5.9 Financial Manual, for the purposes of the calculation and application of allowance and benefits, as determined by the Minister for Public Service and Administration.

## 6. DEFINITIONS, ABBREVIATIONS AND ACRONYMS

For the purpose of this Policy:

- 6.1 “**Compensation**” means additional pay, for overtime performed;
- 6.2 “**Executing Authority**” means the Member of Executive Council for the Province of KwaZulu – Natal.
- 6.3 “**Employee**” means any person, excluding an independent contractor, who works for another person or for the state and who receives, or is entitled to receive, any remuneration; and any other person in any manner assisting in carrying on or conducting the business of an employer, and “employee” and “employed” have meanings corresponding to that of “employee”;
- 6.4 “**Employer**” means the KwaZulu-Natal Department of Social Development;
- 6.5 “**Overtime**” means work in excess of the hours of work per week or month, that an employee has been contracted to perform; and
- 6.6 “**Week**” means the period of seven days within which the working week of that employee ordinarily falls.

## 7. POLICY PROVISIONS

### 7.1 Conditions for Compensation for overtime worked

#### 7.1.1 Authority

The authority to approve overtime compensation rests with the Executive Authority or his/her designee. The following factors must be taken into consideration *prior to* obtaining written authority:

- (a) the circumstances which necessitate the performance of overtime;
- (b) the steps which were taken to prevent overtime, including but not limited to, redistribution of duties amongst available staff,

reallocation of staff, temporary utilisation of staff in other divisions, *filling of vacant posts*.

- (c) when the performance of overtime is aimed at the completion of work that has fallen in arrears, the circumstances should be investigated; and
- (d) Determining the number of hours overtime to be performed and setting production targets and aims as criteria;
- (e) the numbers and ranks of the employees who will be required to perform overtime;
- (f) how much overtime an employee may work in a given period and the estimated duration of the overtime;
- (g) the estimated expenditure, *with due consideration to available funds* on the planned overtime;
- (h) Responsibility Managers must ensure that prior written approval is granted before any overtime is performed.

#### **7.1.2 An employer may not require or permit an employee:**

- (a) to work overtime except in accordance with a written agreement;
- (b) to work more than three (3) hours overtime a day or ten (10) hours a week,
- (c) to be paid monthly compensation for overtime that exceeds 30% of the employee's monthly salary; except in exceptional circumstances; such circumstances must be motivated with compelling reasons justifying the payment of overtime exceeding 30%.

#### **7.1.3 Compensated Overtime**

7.1.3.1 Compensated overtime must not be approved if an employee performs overtime during a period of leave.

7.1.3.2 If an employee has been recalled from leave, such leave must be cancelled.

#### **7.1.4 Authorisation of Overtime**

If the employer authorises overtime, he/she shall ensure that:

- (a) the terms of the written agreement must stipulate the following:
  - (i) the purpose of overtime;

- (ii) type of compensation;
- (iii) period of overtime; and
- (iv) amount and times of rest period (break intervals).

(b) fair and acceptable limits are placed on the extent of overtime.

#### **7.1.5 The constitution of overtime**

Overtime shall generally include periods:-

- (a) provided for rest and meals; and
- (b) when an employee is at his/her place of work but temporarily cannot actually work due to circumstances beyond his/her control, for example, power failure.

#### **7.1.6 Travel to normal place of work for overtime purposes**

In order to perform authorised overtime, an employee may travel from home to his/her normal place of work or from the normal workplace to home at a time when she /he usually would not travel in this case,

- (a) if the employee was not on authorised standby duty,
  - (i) the journey counts as an official journey, but the time spent on the journey does not count as overtime work; and
- (b) if the employee was on authorised standby duty the time spent on the journey counts as overtime work.

#### **7.1.7 Overtime in the case where the employee works away from his or her workstation**

If, in order to perform authorised overtime, an employee must travel to a place other than his/her normal place of work, the time spent on the journey shall count as overtime work.

## **7.2 Kinds of Compensation**

### **7.2.1 Sunday and Public Holiday Work**

With due regard to the provisions of the *PSCBC Resolution No 3 of 1999*, *PSCBC Resolution 1 of 2007* and Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);

7.2.1.1 The employer must provide compensation for Sunday or Public Holiday work when the Executive Authority or his or her designee requires an employee, in writing, to work paid overtime:

- (a) on a Sunday or other public holiday, if the employee does not normally work on such a day; or

7.2.1.2 The employer shall compensate authorised Sunday or Public Holiday work by:

- (a) paying the employee concerned who does not ordinarily work on Sunday or Public Holiday double her or his normal hourly remuneration for each hour worked without the option of granting time-off.

## **7.2.2 Normal Overtime**

7.2.2.1 The employer must provide compensation for normal overtime when the Executive Authority or his /her Designee;

- (a) has required an employee, in writing, to perform official duties for more hours than the employee's normal working hours during the week, but
- (b) has not required Sunday work and Public Holiday work as defined in 7.2.1, or night overtime as defined in 7.2.3

7.2.2.2 The employer must compensate authorised normal overtime by:

- (a) paying the employee concerned one and one half times his/her normal hourly remuneration without the option of granting time-off.

7.2.2.3 Overtime for drivers serving the Executive Authorities shall be paid in terms of the Financial Manual issued annually by the Department of Public Service and Administration. The Head of Ministry must approve the payment of overtime in excess of the hours stipulated in the Financial Manual.

## **7.2.3 Night Work**

7.2.3.1 The employer must provide compensation for night overtime when:

- (a) The *Executive Authority or his/her Designee* has required an employee, in writing, to perform paid overtime between 20H00 hours and 06H00 hours; and
- (b) the employee does not normally work at night.

7.2.3.2 The employer must compensate authorised night overtime by:

- (a) paying the employee concerned two times her/his normal hourly remuneration.

## 7.2.4 Overtime Allowance

7.2.4.1 The employer can pay the employee a fixed monthly allowance to compensate for overtime if,

- (a) the employee performs reasonably similar amounts of authorised overtime, Sunday work or night overtime from month to month; and
- (b) the employee agrees in writing.

7.2.4.2 The allowance must be equal to the average monthly compensation the employee received for overtime in the six months preceding the establishment of the allowance.

## 7.3 Exemption to payment of Overtime

Categories of employees who may not be compensated for overtime are employees:

- (a) who belong to the Senior Management Service (SMS).
- (b) who are required to work commuted overtime as per PSCBC resolution 1 of 2007.

## 8. CONTROL MEASURES

8.1 It is the responsibility of the head of section / directorate to ensure that there are adequate supervision and control measures at all times during the performance of overtime including,

- (a) that overtime is efficient and cost effective,
- (b) that the quality and quantity of the work performed during overtime must be monitored;
- (c) a record (*attendance register*) of all overtime must be kept and must be signed by the employee concerned and authorised by the supervisor. These records must be available for scrutiny at any time;
- (d) the person who authorises the overtime must be of a rank higher than the employee performing overtime;
- (e) the terms of the written agreement(s) must be adhered to;
- (f) an overtime audit must be done against all the relevant documentation on a regular basis;
- (g) an overtime report must be submitted to the Executive Authority or his/her designee , once the overtime exercise is complete; and

- (h) Failure to comply with the provisions of this Policy may result in an act of misconduct.

**9. ROLES AND RESPONSIBILITIES**

All managers are to ensure that control measures in this Policy are adhered to.

**10. MONITORING, EVALUATION AND REVIEW**

10.1 The Human Resource Management Component is responsible for communicating the provisions of this Policy to all employees.

10.2 The Policy will be monitored, evaluated and reviewed after three years or as and when the need arises.

**11. EFFECTIVE DATE**

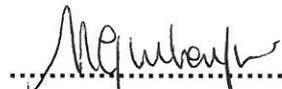
This Policy is to be effective on the date of approval.

**12. TITLE OF THE POLICY**

This Policy shall be called Policy on Overtime.

**13. POLICY APPROVAL**

This Policy supersedes all other policies already in existence. This Policy is approved with effect from the 09<sup>th</sup> day of April in the year 2014.

  
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**ACTING HEAD OF DEPARTMENT  
DEPARTMENT OF SOCIAL DEVELOPMENT**

*Zanwa  
Please process  
Perum 28/01/2014*



**social development**

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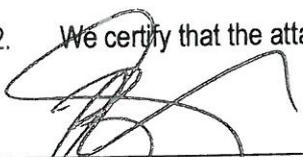
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**TO** : Mr. M.T Mazibuko  
Senior Manager: HRA  
**KZN Social Development**

**DATE** : Tuesday, 14 January 2014

**SUBJECT** : **POLICY ON OVERTIME.**

1. Please find the attached copy of the Policy on Overtime.
2. We certify that the attached Policy complies with applicable laws.

  
**Mr. Z.B Simelane**  
(Acting) Deputy Manager: Legal Compliance.  
**Legal Services Directorate**

**DATE:** 2014/01/14