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Department:  
Roads and Public Works  
NORTHERN CAPE PROVINCE  
REPUBLIC OF SOUTH AFRICA

# DEPARTMENTAL POLICY ON WORKING HOURS AND OVERTIME

Version 3

FEBRUARY 2019

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## 1. DEFINITIONS

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| "Accounting Officer" | Refers to the Head of Department.  |
| "BCEA"               | Means the Basic Conditions of Employment Act, Act No. 75 of 1997, as amended.  |
| "Department"         | Means Northern Cape Department of Roads and Public Works.  |
| "DPSA"               | Means the Department of Public Service and Administration.   |
| "HCM"                | Means Human Capital Management.  |
| "HOD"                | Means Head of Department.  |
| "NCDRPW"             | Means Northern Cape Department of Roads and Public Works.  |
| "Overtime"           | Overtime refers to work in excess of the hours of work per week (40 hours) than an employee has contracted to perform.   |
| "Programme Managers" | The Senior Management Service Members who are responsible for managing a certain Departmental Programme / Directorate.   |
| "PSCBC"              | Means Public Service Co-ordinating Bargaining Council.   |
| "PSR"                | Means Public Service Regulations.  |
| "SMS"                | Senior Management Service.   |
| "Working Hours"      | Means those hours during which an employee is obliged to work.   |
| "Employee"           | An employee includes all employees of the Department employed in terms of the Public Service Act of 1994, the Basic Conditions of Employment Act of 1998, as amended and includes contract workers, interns, volunteers and prospective employees. |
| "Normal Working Day" | Weekdays from Monday to Friday except for Public holidays, and sick, special as well as vacation leave.  |
| "Working Week"       | An official period of service which an employee is required to complete in respect of a period which ended from midnight between a Saturday and a Sunday to midnight between the following Saturday and Sunday.                                    |

## **2. INTRODUCTION**

- 2.1. The purpose of the policy is to provide guidelines for working hours and parameters for the payment of overtime.
- 2.2. The Basic Conditions of Employment Act of 1997 sets out guidelines on working hours and overtime.
- 2.3. If it is required from an employee to work more than the normal hours or on days of rest and other agreements do not prevent overtime payments to the employee, the employer may provide compensation through time off and/or additional pay.
- 2.4. The determination of working hours and overtime is informed by the nature of service provided by the NCDRPW.

## **3. REGULATORY FRAMEWORK**

- 3.1. The Constitution of the Republic of South Africa (Act No. 108 of 1996), section 215 and 217,
  - 3.2. The Public Finance Management Act no.1 of 1999 (as amended by Act no 29 of 1999):
    - o Section 38 dealing with general responsibilities of accounting officers and specifically subsection 38 (1)(a)(i), 38(1)(b),38(1)(d),38(1)(h) and
    - o Section 45 dealing with the responsibilities of other officials.
  - 3.3. Treasury Regulations issued in terms of the Public Finance Management Act,1999, Section 8.2.2 (Approval of Expenditure), 10.1.1 and 10.1.2 (Asset Management)
  - 3.4. Other applicable legislations as stated below:-
    - 3.4.1. The Basic Conditions of Employment Act, Act No. 75 of 1997, as amended.
    - 3.4.2. The Code of Good Practice on the Regulation of Working Time.
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- 3.4.3. The Public Service Act, Act No. 103 of 1994, as amended.
- 3.4.4. The Public Service Regulations, 2001.
- 3.4.5. Public Service Co-ordinating Bargaining Council (PSCBC) Resolutions 3 of 1999 and 1 of 2007
- 3.4.6. The Labour Relations Act, Act No. 66 of 1995, as amended.
- 3.4.7. DPSA Financial Manual.

#### **4. OBJECTIVE**

This policy is formulated in order:-

- 4.1. To provide a workplace framework for the management, compensation and regulation of additional working hours, which an employee has to perform in excess of his/her normal hours of work.
- 4.2. To enhance productivity and promote efficiency by providing working time responsive to the employer's and the employees' needs by providing measures according to which employees can be compensated for additional hours they performed in excess of their normal hours of work.

#### **5. PRINCIPLES, VALUES AND PHILOSOPHY**

This policy is intended to reflect the department's commitment to the principles, goals and ideals described in the department vision and core values.

- 5.1 In accordance with Public Service Regulations part V E. 2(b) an employee may be compensated for overtime work if the department has an overtime policy. PSCBC Resolution 3 of 1999 part VIII 3 also stipulate that before compensation for overtime is being authorized, a written policy for the department should be negotiated, determining the conditions under which the department shall provide compensation for overtime work.
  - 5.2 Overtime work shall be utilized only when clearly necessary and cost effective.
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- 5.3 Strict and accurate records shall be kept.
- 5.4 An application for overtime shall be approved prior to an employee commences working for remunerative overtime.

## **6. SCOPE AND APPLICABILITY**

- 6.1. This policy is applicable to persons as stipulated in Basic Conditions of Employment Act; with the exclusion of the HOD and Senior Management as per the stipulations of the Public Service regulations, 2001.
- 6.2. The individuals to whom the policy is applicable are the following:
- All permanent employees of the department, with the exclusion of the above; and
  - All employees on contracts; including interns and learners.

## **7. PROCEDURES**

### **7.1. The following Procedures are applicable to Normal Working Hours**

#### **7.1.1. Opening and Closing Times**

- General working hours are from 07h30 to 16h00 or as fixed by the HOD.
  - Full time employees are expected to be on duty on each working day for a minimum of eight (8) hours and to work a minimum of forty (40) hours per week for a 5 days' work or 7 hours per day if the employee works more than 5 days per week; that is in accordance with the Labour Relations Act as may be amended. The normal working week is from Monday to Friday. For shift workers the normal working week will be regarded as from Monday to Sunday but not exceeding forty (40) hours per week.
  - Temporary, Part-Time and Casual employees will work the number of hours per day or week as specified in their employment contract/letters.
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#### **7.1.2. Flexi-Time**

- Provision is made for managers to utilize flexi-time as a measure to allow employees an amount of freedom concerning commencement and knock-off time of duty.

#### **7.1.3. Lunch and Tea Time**

- Employees are entitled to a 45-minute lunch and two 15-minute tea times. The indicated tea times must still be regarded as official working hours.

#### **7.1.4. Emergency Work**

- a) The HOD may require an employee to perform work outside normal working hours if the work must be performed urgently owing to circumstances, which are beyond the control of the HOD and for which she or he could not reasonably have been expected to make provision.
- b) Where the employee is required to work outside normal working hours as a result of an emergency or due to circumstances that could not have been foreseen by the NCDRPW, the time so worked shall be deemed to be normal working time and not overtime.

### **7.2. Overtime**

Only duties in excess of the prescribed hours of work authorized by the Head of Department (or delegated authority), may be considered for overtime compensation. Duties performed by employees during periods of leave are not considered for purposes of the overtime compensation, unless an employee recalled from leave works more than eight (8) hours. The availability of funds must at all times be taken into consideration.

#### **7.2.1. Weekends and Public Holidays**

- (a) Employees may from time to time be required to work outside ordinary working hours, over weekends or on public holidays. The NCDRPW will give as much notice as possible if such working time is required.
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### 7.2.2. Categories of Employees who do not Qualify for Overtime

The Department may not compensate employees for overtime under the following conditions and circumstances:-

a) Member of Senior Management Scheme (SMS)

Although PSR par V E3 makes provision, in exceptional cases, to compensate Senior Managers for overtime; the norm is that it is within these employees' nature of work and responsibility, to work more than the normal hours and that compensation for this is included in the salary packages.

In accordance with Section 6 of the BCEA, the chapter on overtime does not apply to senior managerial employees and no provision is made for the compensation of such employees should they work hours in excess of the normal working hours.

b) Employees who work less than 24 hours in a month; AND employees performing duties whilst on official leave.

c) There is no written authorization in advance for the paid overtime.

### 7.3. Compensation Measures

The Department will be compelled to pay overtime to all full time employees on salary level 1-12 of the Department appointed in terms of Public Service Act, 1994 as amended; using the rate as prescribed in the Determination on Working Time issued by the Department of Public Service Administration (DPSA) per PSCBC Resolution 1 of 2007 on condition that overtime was properly authorised.

(a) Payment of the Overtime Remuneration

Overtime duty must be compensated for according to the overtime tariffs as indicated in the DPSA Financial Manual E1/2/1 or guidelines as provided by the DPSA. Payments are made according to funds allocated in the budget. The procedure for the payment of overtime duty is stipulated in the Financial Manual.

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There must be prior approval obtained before an employee can work remunerative overtime.

(b) Time-Off Measure

If funds for overtime remuneration are limited or additional means for overtime are sought, time-off measures may be implemented. An employee may be granted time-off for those periods where overtime duty was performed without remuneration. Time-off may be provided for each hour overtime duty was performed. With the utilization of time-off, it must be ensured that effective control measures are imposed.

An employee must be awarded at least 90 minutes paid time-off for each hour of overtime worked. According to Resolution 3 of 1999, time-off for Sunday work must be twice (2x) the time worked. Time-off must be awarded to an official within one month after completion of overtime/time-off duty. Time-off should be awarded where there are not sufficient funds to pay overtime.

**7.4. Conditions for the Approval of Overtime**

- The number of hours' overtime that must be performed is limited to 3 hours per day or 10 hours per week and 8 hours on weekends and Public Holidays.
  - Only those employees who perform work in excess of the normal working hours for a period of time may receive overtime compensation.
  - Overtime compensation may not exceed 30% of the employee's monthly salary.
  - Managers should only authorize compensated overtime when their components have to take on additional tasks for a period of time. This could be because of vacancies, transformation projects and/or short term requirements due to changes in circumstances.
  - Overtime should not be allowed when employees have to attend courses (except where the course is of critical importance for the employee as well as for the NCDRPW), when employees perform work voluntarily during a period of leave and/or when a manager thinks that an employee deserves a higher salary
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#### **7.5. Conditions for which Overtime will not be Paid and Authorized**

Overtime should not be authorized in the following circumstances:-

- 7.5.1. If there is enough staff to do the work and the staff have not been optimally utilized;
- 7.5.2. Training should be arranged in such a way that it does not affect service delivery;
- 7.5.3. When an employee works voluntary during leave;
- 7.5.4. Employees will not be permitted to volunteer to work overtime and expect overtime payment in return; and
- 7.5.5. If according to the manager's assessment, the work can be done during normal working hours.

#### **7.6. Measures for the Approval of Overtime**

- 7.6.1. It is the responsibility of Programme Managers to draft a submission to request approval in this regard, if they are convinced that remunerative overtime is justified. (Availability of funds and a motivation for the need for overtime must be indicated).
- 7.6.2. The authority to approve remunerated overtime is vests with the Head of Department.
- 7.6.3. Once the above-mentioned has provided approval for overtime, overtime duty may be commenced by the particular section.

#### **7.7. Calculation of Overtime Rate**

The rate of overtime payment is one and a half the employee's wage except for Sunday, which must be double the time worked.

Any periods of time-off to a person's credit should be paid out on termination of service.

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## **7.8. Strategies to Limit the Performance of Remunerative Overtime Work**

### **7.8.1. Time-off Measure**

- A collective agreement may be concluded to provide for time-off instead of overtime or a combination of pay and time-off. See also section 7.2.3(b).

### **7.8.2. Reallocation of Staff**

- Where possible, under-utilized staff can temporarily be allocated to components where overtime has to be performed, with a view to alleviate work pressure. Labour relations implications involved should, however, should be taken into consideration. This approach will obviously only succeed in respect of work of a routine nature and at the same workstations.

### **7.8.3. Conducting Work Study Investigations**

- As part of the process of review and where possible in respect of the approval of remunerative overtime, work study investigations must be undertaken to assess work procedures and the utilization of staff. The results of such work study investigations must be utilized to determine whether anything can be done to avoid the performance of remunerated overtime. This is applicable to both new requests for the approval of overtime and components where remunerated overtime has been performed for long continuous periods.

### **7.8.4. Evaluation of the Establishment**

- Annual statistics on overtime performed per component should be kept. On the basis of the statistics and the level of work pressure per component, the establishments of directorates should be revisited ( $\pm$  every two (2) years). Vacant posts can be re-allocated to components where the work pressure is exceedingly high.
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**7.8.5. Limiting the Performance of Overtime Work to Qualifying Employees in terms of the Basic Conditions of Employment Act and Public Service Regulations**

- Officials should not be utilized to perform work at levels lower than their own during overtime. The correct staff should be utilized for the correct duties. Senior officials therefore should also not perform lower level duties.

**7.8.6. Compressed Working Week**

- An employee may work for up to 12 hours per day without receiving overtime pay provided that the maximum ordinary hours of work and overtime limits contemplated in terms of the BCEA are not exceeded.

*Requests for remunerative overtime can only be recommended or approved if the necessary funds are available. To ensure a continuous review of projects and functions in respect of overtime remuneration, approval granted in this regard will only be valid for a period of one (1) month, and may be extended (on approval by the relevant delegated authority) up to a maximum period of six (6) months.*

**7.9. General Measures**

- 7.9.1. Overtime duty is reserved for the performance of essential projects or functions, i.e. duties or functions that cannot be postponed or with serious consequences.
- 7.9.2. Applications have to be made in advance and approval granted in this regard is only valid for six (6) months.
- 7.9.3. Approved overtime cannot be carried over into a new period. A new application is required in such instances.
- 7.9.4. Claims for remunerated overtime duty will be rejected if the period of overtime duty claimed falls outside the start and end date.
- 7.9.5. Claims for remunerated overtime will be rejected if the amount that has been authorised is exceeded.
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## **8. ROLES AND RESPONSIBILITIES**

- 8.1. The Head of Department or Accounting Officer is responsible for the approval, implementation and review of this policy
- 8.2. Programme managers MUST ensure:-
- 8.2.1. *There is adequate supervision and control during the performance of remunerative overtime;*
- 8.2.2. *Employees are made to sign the attendance register;*
- 8.2.3. *Employees are fully aware of whether overtime payment for work done or time-off will be granted prior to the overtime being worked AND that funds are available to finance the expenditure which will be incurred as a result of the approval of rendering paid overtime duty (Programme Managers must in all instances provide an indication of whether funds are available or not).*
- 8.2.4. *that where time-off is granted records are maintained by employees of the hours accrued and these hours have been approved by the manager;*
- 8.2.5. *that accrued overtime expenditure incurred or time-off does not become excessive and is within the 3 hours per day or 10 hours per week as prescribed by BCEA; and*
- 8.2.6. *that accrued overtime pay or time-off is normally taken within four weeks of the date it was accrued.*
- 8.2.7. *Employees are not subjected to overtime duty to such an extent that the quantity and quality of the work performed during normal working hours is adversely affected.*
- 8.2.8. *In order to improve control, the Programme Managers must determine beforehand the number of hours overtime duty to be performed each day and, as far as possible, set production targets and/or aims as criteria.*
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- 8.2.9. *All overtime, as far as possible, must be performed at the employees' normal place of work. Programme Managers or the HOD can, however, in exceptional circumstances approve that overtime work could also be performed at another place, provided that they satisfy themselves that the number of hours overtime worked were necessary to perform the tasks. The quality and quantity of tasks must also be in line with the number of overtime hours worked.*
- 8.2.10. *Staff is not employed on overtime duty to such an extent that the quantity and quality of work (productivity) performed during normal hours of attendance as well as during periods of overtime duty are adversely affected.*
- 8.2.11. *Particulars regarding the number of hours paid overtime duty performed and the expenditure involved must be provided annually to the Chief Financial Officer.*
- 8.2.12. *No employee may work more than 12 hours of work in any day AND no employee may perform more than 10 hours of overtime per week (three hours per day) except when necessitated by extreme and abnormal circumstances.*
- 8.3. The Directorate Policy and Planning will monitor and evaluate compliance and impact of these guidelines by all programs and sub-programs in the Department.
- 8.4. Programme and Responsibility Managers are responsible for the monitoring of the expenditure and budget.

## **9. FINANCIAL RESOURCE AND BUDGETARY IMPLICATION**

The Programme / Responsibility Managers of the Department shall submit budgetary requests to be approved by the Accounting Officer, on the recommendation of the Chief Financial Officer, to ensure that all expenses relating to overtime work are budgeted for through the medium expenditure framework.

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## **10. POLICY MONITORING, EVALUATION AND REVIEW**

10.1. The Accounting Officer is the official who has overall responsibility of the proper implementation and monitoring of this policy

10.2. The Directorate Strategic Planning Management shall also, on behalf of the Accounting Officer, monitor and evaluate compliance and impact of these guidelines by all programmes and sub-programmes in the NCDRPW.

10.3. This policy is effective from date of signature.

10.4. This policy shall be assessed every five [5] years from its effective date to determine its effectiveness and appropriateness. This policy may be assessed before that time to reflect substantial organisation or other changes at the Department or any change required by law.

10.5. If and when any provision of this policy is amended, the amended provision will supersede the previous one.

10.6. Deviations from this policy must be approved by the Accounting Officer.

**Recommendations and Approvals**

✓  
Approved / not approved

Comments:

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5.3.19

**HEAD OF DEPARTMENT**

**DATE:**

**ROADS AND PUBLIC WORKS**

**NORTHERN CAPE PROVINCE**