

South African Payroll Association

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What employees need to know about overtime compensation

Working time including overtime is regulated by the Basic Conditions of Employment Act, but many workers are not familiar with the technicalities of these laws and many employers do not adhere to the rules, says Arlene Leggat, President of the South African Payroll Association (SAPA).

One of the first things that employees should know is whether they can claim overtime according to the law. “The earnings threshold to be able to earn overtime is currently R205 433.30 per year.

Companies aren’t legally required to pay overtime to employees who earn over this threshold.

Overtime compensation also doesn’t apply to senior management, employees engaged as sales staff who travel to the premises of customers and regulate their own hours or employees who work less than 24 hours a month for an employer,” says Leggat.

What if your employment contract says you can claim overtime?

Leggat advises workers to fine-comb their employment contracts before they join a new company, as the wording in contracts that reference the Employment Act is often misleading.

“Do not assume that you will be compensated for overtime if the contract says that you will be paid for the hours according to the Basic Conditions of Employment Act. If your earnings are over the threshold or you are exempt from overtime compensation due to your role, you might not be compensated,” says Leggat.

In a 2010 lawsuit between packaging and paper group, Mondi, and its employees, Mondi argued that if employees were paid overtime and it pushed their salaries above the R205 433.30 per year earnings threshold, they weren’t obliged to pay overtime. Mondi lost the case and had to reimburse employees for the hours they worked.

“People earning below the threshold aren’t high-income earners and unfortunately, the relationship between employees and employers regarding overtime often sways between beneficial towards workers and abusive,” says Leggat.

Working extra hours: a double-edged sword

Employees in the retail sector and food industry, for example, are often offered overtime shifts. According to the Employment Act, workers are not allowed to work more than 10 hours of overtime a week (collective agreement may increase this to 15 hours per week for up to 2 months a year) or more than 12 hours on any day.

“While the law stipulates that workers aren’t allowed to work more than 10 hours overtime a week, they may be compelled to take on more work if they need the money. On one hand, employees benefit from the increased earning ability, but they need to make sure that they aren’t getting stuck in an abusive situation,” says Leggat.

She concludes by saying that no employee can be forced to work unreasonable hours. “Most employment contracts imply that occasional overtime is expected as part of the role, but an employer can’t threaten you to work unreasonable hours. Reach out to the Department of Labour if you are working unfair hours or you are not being compensated for your extra work,” concludes Leggat

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