

EMPLOYMENT RIGHTS ACT 2008
Act No.33 of 2008

Hours of Work and Conditions of Employment

The Employment Rights Act revises and consolidates the law relating to employment and contracts of employment. The Act promotes sound labour management relations whilst establishing the concept of flexicurity in the employment relationship.

The Employment Rights Act No.33 of 2008 has come into operation on 2 February 2009.

The Labour Act No. of 1975 and Section 20 of the Industrial Expansion Act No. 11 of 1993 have been repealed.

It is important to note that:

- (a) Terms and conditions of employment governing the Contract of Employment of an employee prior to the coming into operation of the Act shall continue, unless the employer and the employee agree otherwise.
- (b) The terms and conditions of employment given in prevailing Remuneration Orders supersedes those contained in the new Act.
- (c) The Termination of Contracts of Service Board established under Section 38 of the Labour Act is abolished. It will continue to exist for a period of six months as from the date of commencement of the new Act to determine pending cases.
- (d) The Act provides that certain terms and conditions of employment are negotiable and may be included in a Collective Agreement and others are non negotiable.

Section 4, 20, 30, 31 and Parts VIII, IX, X and XI are non negotiable terms.

Negotiable terms relate mainly to:

- Section 14 Normal Working Hours*
- Section 16 Overtime*
- Section 17 Public Holidays*
- Section 18 Meal & Tea Breaks*
- Section 19 Meal Allowances*
- Section 24 Payment of Remuneration in Special Circumstances*
- Section 26 Transport of Workers*
- Section 27 Annual Leave*
- Section 28 Sick Leave*

The major provisions of the Employment Rights Act are given below:

Written Particulars of Work Agreement

Every employer of more than 10 workers who employs a worker for more than one month must issue to the worker a written statement of particulars pertaining to the work agreement within two weeks of entering into the agreement.

Worker

A Worker is defined as a person whose basic wage or salary does not exceed 360,000 rupees per annum.

Normal Working Hours

The normal day's work of a worker other than a part-time worker or a watch person consists of 90 hours per fortnight or 8 hours per day and may begin on any day of the week, whether or not a public holiday.

Overtime and Notice to perform Overtime

Overtime is payable after completion of 90 hours in a fortnight. Overtime rate per hour for work in excess of 90 hours per fortnight is 1.5 normal rate.

For work done on Sundays and public holidays the overtime rate is twice the hourly rate for every hour of overtime performed.

The day on which a worker is on annual leave is deemed to be a day's work in the computation of overtime. An agreement may provide for remuneration to include payment of overtime. As far as practicable, 24 hours notice should be given prior to work on overtime.

Rest Day

The Act provides for one rest day in every period of 7 consecutive days and the rest day shall at least twice a month be a Sunday or any other day as agreed by the worker.

Resumption of Work

A worker shall not be required to resume work before a lapse of 11 consecutive hours after he has ceased work.

Shift Work

A shift worker may work in excess of the stipulated hours, without added remuneration under the following conditions:

- (a) the worker and the employer agree on the number of hours of work to be performed in the shift and
- (b) the average number of hours covered in a fortnight does not exceed 90 hours or any lesser number of hours agreed by the worker and the employer.

Meal Allowance

The Act provides for a meal of Rs50 when a worker works:

- (a) for less than 2 hours but up to 7.00 p.m on any day or
 - (b) for at least 2 hours and up to 6.00 p.m on any day
- after having completed a normal day's work.

Transport of Workers

The Act provides for refund of bus fares when the distance between the worker's place of residence and place of work exceeds 3 km.

Annual Leave

The number of annual leaves is 20 days after 12 months continuous service. Furthermore the worker will be entitled to two additional days of leave.

Sick Leave

The number of sick leaves has been changed from 21 to 15 days.

However, an employee may accumulate up to a maximum of 90 days sick leave.

Paternity Leave

A Paternity Leave of 5 continuous working days on full pay has been introduced and shall begin within one week from the birth of the child.

Maternity Benefits and Allowance

A female employee is entitled to a maternity leave of 12 weeks and time off of 6 months for nursing an unweaned child at a time, convenient to the worker.

In case of miscarriage, 2 weeks full pay should be granted and a maximum of 12 weeks leave in case of birth of a still born child.

A maternity allowance of Rs2000 is payable.

Death Grant

A death grant of Rs3500 is payable to the spouse of an employee who dies and who reckons twelve continuous months of service.

4 February 2009