

S.I. 14 of 1997

**INTERNATIONAL TRADE ZONE (EMPLOYMENT)
REGULATIONS, 1997**

(S.I. 13 of 1997)

**International Trade Zone (Conditions of Employment)
Order, 1997**

In exercise of the powers conferred by regulation 20(1) of the International Trade Zone (Employment) Regulations, 1997, the Minister of Finance and Communications, in consultation with the Authority, hereby makes the following Order—

1. This Order may be cited as the International Trade Zone (Conditions of Employment) Order, 1997.

2. (1) In this Order —

“alternative holiday” means a day off work granted in lieu of a holiday;

“days” when used in relation to leave includes holidays;

“holiday” means Sunday or a public holiday;

“medical certificate” means a certificate by a medical practitioner or other person authorised by the Minister responsible for Health to issue certificates for the purposes of these Regulations;

“public holiday” does not include Sunday;

“shift-worker” means a worker engaged in an occupation which, by reason of its nature, requires the regular attendance and attention of personnel;

“week-day” means any day other than a holiday.

3. (1) An employer shall not require a worker, other than a watchman or a worker on the outer island, to work for more than —

- (a) the customary number of hours per week or per day prevalent in the business or occupation in which the worker is employed;

Citation

Interpreta-
tionMaximum
Number of
working
hours

- (b) 60 hours per week or 12 hours per day, whichever is the less.

(2) The hours referred to in subparagraph (1) include an aggregate of a half-hour's break per day but do not include any longer break which may be given for meals or any other purpose.

(3) An employer shall not require a watchman to work for more than 72 hours per week.

(4) An employer of a worker on an outer island shall not require the worker to work for more than 8 hours a day.

Rest period

4. the An employer shall grant to his worker at least 36 consecutive hours' rest in any period of 7 days.

Holidays

5. (1) Except in an essential service, an employer shall not require a worker, other than a shift-worker or a watchman, to work on holidays.

(2) A worker, other than a shift-worker or a watchman, who works on a holiday is entitled to double-pay for that day, or to an alternative holiday, at the option of the employer.

(3) A shift-worker or watchman who works on a public holiday is entitled to double pay for that day, or to an alternative holiday, at the option of the employer.

Overtime hours

6. (1) Notwithstanding paragraph 3, a worker, other than a watchman —

(a) may agree,

(b) may, in exceptional circumstances, be required by his employer,

to work for more than 60 hours per week or 12 hours per day.

(2) Overtime is payable at the minimum rate of —

(a) 1 hours' pay for 1 hour's work on a week-day;

(b) 2 hours' pay for 1 hour's work on a holiday,

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but the employer may, at his option, give the worker time off equivalent to the number of hours worked as overtime in lieu of payment.

7. An employer who —

Offences

- (a) contravenes paragraph 3(1) or 5(1);
- (b) fails to pay overtime pay or to grant alternative holidays or time-off in lieu as required under paragraph 5(2) or 5(3) or 6(2),

is guilty of an offence.

8. (1) A worker is entitled to 21 days' paid annual leave or, where the employment is for less than a year, to 1.75 days for each month of employment, the aggregate number of days being rounded up upon addition to the highest integer.

Annual leave

(2) Subject to this paragraph, the annual leave entitlement is taken each year by mutual arrangement between the employer and worker but the employer shall ensure that a worker, engaged by him under a contract of continuous employment or under a contract for a certain time which lasts for a year or more, takes a minimum period of 7 consecutive days' leave in a year, unless the worker has, under the mutual arrangement, agreed to accumulate his leave entitlement.

(3) Leave not taken in a year may be accumulated.

(4) Where mutually agreed between employer and worker under a contract of continuous employment two thirds or more of the leave entitlement in any year may be converted into cash payment in that year.

(5) Under a contract for a certain time, the whole of the leave earned and not taken may be converted into cash upon termination of the contract.

Compassionate leave

9. (1) Wherever a worker loses a very close relative declared at time of employment or there are other compassionate reasons which require the presence or attendance of the worker, he shall be entitled to compassionate leave.

(2) Where leave taken under subparagraph (1) is in excess of 2 days in a period of 12 months, the excess may either be unpaid or, at the discretion of the employer, may be deducted from the worker's entitlement to annual leave.

(3) A worker shall also be allowed reasonable time off work, with or without pay at the discretion of the employer, to attend matters which cannot normally be attended to except during the worker's working hours.

Sick leave

10. (1) Subject to this paragraph, a worker is entitled to sick leave in any period of 12 months as follows—

- (a) an aggregate maximum of 30 days' paid sick leave;
- (b) when a worker is required by a medical practitioner to be confined to a hospital or similar institution if—

- (i) the worker has not exhausted his 30 days' paid sick leave referred to in subparagraph (a); and
- (ii) the worker is confined at the hospital or similar institution for a continuous period which extends beyond the unexhausted part of the 30 days' paid sick leave,

the worker shall be entitled to a further maximum days' paid sick leave during that continuous period;

- (c) an aggregate maximum of 60 days' unpaid sick leave after the exhaustion of paid sick leave under this paragraph.

(2) Entitlement to sick leave under subparagraph (1) arises where—

- (a) a medical certificate of unfitness for work or confinement, as the case may be, is produced;
- (b) in the case of subparagraph 1(a) or (c), a worker's child under 12 years of age is medically certified sick and a medical practitioner or official authorised by the Minister of Health recommends that the worker attends the child;
- (c) in the case of subparagraph 1(a) or (c), a worker's dependent other than a child under 12 years of age is medically certified sick and a social worker certifies that the sick person requires the attendance of the worker.

(3) Where a worker is under a contract for a certain time and the duration of the contract is of less than 12 months, the eligibility to sick leave under subparagraph (1) is of a number of days bearing the same proportion to the term of the contract as the periods of sick leave referred to in subparagraph (1) bear to 12 months, but in any case ends upon the date of expiry of the contract.

(4) Where following the full period of paid sick leave, a medical practitioner certifies that the worker will not recover and be fit for work, the contract is deemed to be frustrated.

(5) Where a worker for reasons attributable to sickness fails to report for work after a full period of unpaid sick leave, the contract is deemed to be frustrated.

(6) Where a worker for reasons not attributable to sickness fails to report for work after a full period of unpaid sick leave, the contract is deemed to have been terminated by the worker.

(7) For the purposes of this paragraph, an employer may require a worker to be examined by a medical practitioner designated by the employer.

11. (1) Where a medical certificate is produced to the effect that a worker is unfit for the particular duties for which he was engaged but may perform alternative duties and no alternative duties are available, the worker is entitled to sick leave under paragraph 10.

Unfitness for
particular
duties

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(2) Where, consequent upon the production of a certificate under subparagraph (1), alternative duties are available, the worker shall be temporarily redeployed to those duties but the wages for his normal duties are maintained.

(3) Where a worker temporarily redeployed under subparagraph (2) is still unfit for his previous duties after 30 days, he may be permanently redeployed to his new duties in which case the terms and conditions attaching to the new duties shall apply.

(4) Where a permanent redeployment pursuant to sub-paragraph (3) is not available, the worker shall, subject to paragraph 10(3), be entitled to 60 days' unpaid sick leave unless a medical certificate is produced under paragraph 10(4) in which the case the contract of employment is deemed to be frustrated.

Employer
entitled to
sickness
benefit
Cap. 226

12. An employer who pays sick leave under paragraph 11 or maternity leave under paragraph 13 to a worker is subrogated in the rights of the worker to any sickness or maternity benefit to which the worker is entitled under the Social Security Act.

Maternity
leave

13. (1) A female worker under a contract of continuous employment or, subject to subparagraph (3), under a contract for a certain time is entitled to a total of 8 weeks' paid leave and to 4 weeks unpaid maternity leave to be taken either before or after paid maternity leave.

(2) Where, whether before or after the period of paid maternity leave under subparagraph (1), a female worker is medically certified as unfit for work on grounds of illness, or of disability arising out of pregnancy or confinement, the female worker is entitled to sick leave under paragraph 10.

(3) Where a female worker is under a contract for a certain time, the eligibility of the worker to maternity leave under this paragraph ends upon the date of expiry of the contract.

Notice to
employer

14. A pregnant worker shall give to the employer of the worker at least 3 month's notice of the expected date of confinement.

15. A female worker entitled to paid maternity leave shall not return to work before the end of the worker's entitlement leave and an employer who permits or induces a female worker so to return is guilty of an offence.

Maternity
leave
compulsory

16. Where a female worker fails to return to work after the full period of maternity leave allowed under paragraph 13(1) then, unless the worker produces a medical certificate under paragraph 13(2), the contract of employment is deemed to have been terminated by the worker.

Failure to
return after
maternity
leave

17. (1) A person shall not have in the employment of the person a worker of less than 15 years of age.

Minimum
employment
age

(2) Notwithstanding subparagraph (1), work schemes may be organised for school children on vacation or holidays and where such schemes have the approval of the Authority, children aged 12 to 14 years may participate in them provided the work is of a light nature and subject to such approval.

(3) Notwithstanding subparagraph (1), children aged 12 to 14 years may, outside school hours, run occasional errands and do odd jobs provided the duties are light and not recurrent.

18. (1) A female worker, from the time the worker is 6 months pregnant and up to 3 months after the confinement, shall not be employed on overtime work or at night between the hours of 10 p.m. and 5 a.m.

Maternity
protection

(2) Where, at any time during pregnancy and up to 3 months after confinement, a female worker produces a medical certificate that a change in the nature of work or duties is necessary in the interest of the health of the worker or that of the child of the worker, the worker has the right to be transferred to other work or duties appropriate to the condition of the worker without loss of wages.

(3) Where a transfer is not possible pursuant to sub-paragraph (2), the female worker is entitled to sick leave under paragraph 10.

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| Offences | 19. A employer who contravenes paragraph 17, or 18(1) is guilty of an offence. |
| Trainee's allowance | 20. Subject to the Authority's approval a trainee shall be paid an allowance as may be agreed upon between the trainee and its employer. |
| Additional Offences | 21. An employer in breach of a regulation for which no offence is specified under this Order is guilty of an offence. |
| Penalties on Conviction | 22. A person guilty of an offence under this Order is liable on conviction to a fine of R5000. |

MADE this 31st day of January, 1997.

J. MICHEL
MINISTER OF FINANCE
AND COMMUNICATIONS
