

### 月給4,000リングを超える従業員には適用されない条項

\*1955年雇用法（以下抜粋）のうち、赤字で示した部分については、月給4,000リングを超える従業員には適用されない。

#### 60. Work on rest day

- (1) Except as provided in subsection 60A(2), no employee shall be compelled to work on a rest day unless he is engaged in work which by reason of its nature requires to be carried on continuously or continually by two or more shifts:

Provided that in the event of any dispute the Director General shall have power to decide whether or not an employee is engaged in work which by reason of its nature requires to be carried on continuously or continually by two or more shifts.

- (2) *(Omitted).*

- (3) *(a) In the case of an employee employed on a daily, hourly or other similar rate of pay who works on a rest day, he shall be paid for any period of work—*

- (i) which does not exceed half his normal hours of work, one day's wages at the ordinary rate of pay; or*
- (ii) which is more than half but does not exceed his normal hours of work, two days' wages at the ordinary rate of pay.*

*(b) In the case of an employee employed on a monthly or weekly rate of pay who works on a rest day, he shall be paid for any period of work—*

- (i) which does not exceed half his normal hours of work, wages equivalent to half the ordinary rate of pay for work done on that day; or*
- (ii) which is more than half but which does not exceed his normal hours of work, one day's wages at the ordinary rate of pay for work done on that day.*

*(c) For any work carried out in excess of the normal hours of work on a rest day by an employee mentioned in paragraph (a) or (b), he shall be paid at a rate which is not less than two times his hourly rate of pay.*

*(d) In the case of an employee employed on piece rates who works on a rest day, he shall be paid twice his ordinary rate per piece.*

## **60A. Hours of work and Working at Night**

- (1) Except as hereinafter provided, an employee shall not be required under his contract of service to work—
- (a) more than five consecutive hours without a period of leisure of not less than thirty minutes duration;
  - (b) more than eight hours in one day;
  - (c) in excess of a spread over period of ten hours in one day;
  - (d) more than forty-five hours in one week:

Provided that—

- (i) for the purpose of paragraph (1)(a), any break of less than thirty minutes in the five consecutive hours shall not break the continuity of that five consecutive hours;
  - (ii) an employee who is engaged in work which must be carried on continuously and which requires his continual attendance may be required to work for eight consecutive hours inclusive of a period or periods of not less than forty-five minutes in the aggregate during which he shall have the opportunity to have a meal; and
  - (iii) where, by agreement under the contract of service between the employee and the employer, the number of hours of work on one or more days of the week is less than eight, the limit of eight hours may be exceeded on the remaining days of the week, but so that no employee shall be required to work for more than nine hours in one day or forty-five hours in one week.
- (1A) The Director General may, on the written application of an employer, grant permission to the employer to enter into a contract of service with any one or more of his employees, or with any class, category or description of his employees, requiring the employee or employees, or the class, category or description of employees, as the case may be, to work in excess of the limit of hours prescribed under paragraph (1)(a), (b), (c) and (d) but subject to such conditions, if any, as the Director General may deem proper to impose, if he is satisfied that there are special circumstances pertaining to the business or undertaking of the employer which renders it necessary or expedient to grant such permission:

Provided that the Director General may at any time revoke the approval given under this subsection if he has reason to believe that it is expedient to do so.

- (1B) Any person who is dissatisfied with any decision of the Director General under subsection (1A) may, within thirty days of such decision being communicated to him, appeal in writing therefrom to the Minister.
- (1C) On an appeal made to him under subsection (1B) the Minister may make such decision or order thereon as appears just and such decision or order shall be final.
- (2) An employee may be required by his employer to exceed the limit of hours prescribed in subsection (1) and to work on a rest day, in the case of—
  - (a) accident, actual or threatened, in or with respect to his place of work;
  - (b) work, the performance of which is essential to the life of the community;
  - (c) work essential for the defence or security of Malaysia;
  - (d) urgent work to be done to machinery or plant;
  - (e) an interruption of work which it was impossible to foresee; or
  - (f) work to be performed by employees in any industrial undertaking essential to the economy of Malaysia or any essential service as defined in the Industrial Relations Act 1967:

Provided that the Director General shall have the power to enquire into and decide whether or not the employer is justified in calling upon the employee to work in the circumstances specified in paragraphs (a) to (f).

- (3) (a) For any overtime work carried out in excess of the normal hours of work, the employee shall be paid at a rate not less than one and half times his hourly rate of pay irrespective of the basis on which his rate of pay is fixed.
- (b) In this section —overtime means the number of hours of work carried out in excess of the normal hours of work per day:

Provided that if any work is carried out after the spread over period of ten hours, the whole period beginning from the time that the said spread over period ends up to the time that the employee ceases work for the day shall be deemed to be overtime.

- (c) For the purposes of this section, section 60, paragraph 60D(3)(a) and section 60I, —normal hours of work means the number of hours of work as agreed between an employer and an employee in the contract of service to be the usual hours of work per day and such hours of work shall not exceed the limits of hours prescribed in subsection (1).

- (4) (a) No employer shall require or permit an employee to work overtime exceeding such limit as may be prescribed by the Minister from time to time by regulations made under this Act, and the regulations so made may provide different limits for different classes, categories or descriptions of employees, and such regulations may also provide for such classes, categories or description of employees, as may be specified, to be excluded from their application:

Provided that any work carried out on a rest day, or any of the gazetted public holidays referred to in subsection 60D(1), or on any paid holiday substituted there for under section 60D, shall not be construed as overtime work for the purposes of this subsection;

And provided further that the Director General may, on application made to him in writing by an employer or by an employee or a group of employees, permit any particular employee, or any group, class, category or description of employees in any particular industry, undertaking or establishment to work overtime in excess of the limit of hours so prescribed, subject to such conditions, if any, as he may deem proper to impose.

(aa) Any person who is dissatisfied with any decision of the Director General made under paragraph (a) may, within thirty days of such decision being communicated to him, appeal in writing therefrom to the Minister.

(ab) In deciding any appeal made to him under paragraph (aa), the Minister may make such decision or order thereon as appears just and such decision or order shall be final.

(b) For the purposes of the restriction on overtime under this subsection —overtime shall have the meaning assigned thereto in paragraph (3)(b).

- (5) (Omitted).
- (6) The Minister may make regulations for the purpose of calculating the payment due for overtime to an employee employed on piece rates and prescribing matters relating to working at night.
- (7) Except in the circumstances described in paragraph (2)(a), (b), (c), (d) and (e), no employer shall require any employee under any circumstances to work for more than twelve hours in any one day.
- (8) This section shall not apply to employees engaged in work which by its nature involves long hours of inactive or stand-by employment.
- (9) For the purposes of this Part —hours of work means the time during which an employee is at the disposal of the employer and is not free to dispose of his own time and movements.

#### **60C. Shift work**

- (1) Notwithstanding paragraphs 60A(1)(b), (c) and (d), but subject to paragraph (1)(a) thereof, an employee who is engaged under his contract of service in shift work may be required by his employer to work more than eight hours in any one day or more than forty-five hours in any one week but the average number of hours worked over any period of three weeks, or over any period exceeding three weeks as may be approved by the Director General, shall not exceed forty-five per week.
- (1A) The approval of the Director General in subsection (1) may be granted if the Director General is satisfied that there are special circumstances pertaining to the business or undertaking of the employer which render it necessary or expedient for him to grant the permission subject to such conditions as he may deem fit to impose.
- (1B) The Director General may revoke the approval given under subsection (1A) at any time if he has reason to believe that it is expedient so to do.
- (2) Except in the circumstances described in paragraphs 60A(2)(a), (b), (c), (d) and (e), no employer shall require any employee who is engaged under his contract of service in shift work to work for more than twelve hours in any one day.
- (2A) The Minister may make regulations relating to the entitlement of allowance during shift work.
- (3) (Omitted).

#### **60D. Holidays**

- (1) Every employee shall be entitled to a paid holiday at his ordinary rate of pay on the following days in any one calendar year:
  - (a) on eleven of the gazetted public holidays, five of which shall be—
    - (i) the National Day;
    - (ii) the Birthday of the Yang di-Pertuan Agong;
    - (iii) the Birthday of the Ruler or the Yang di-Pertua Negeri, as the case may be, of the State in which the employee wholly or mainly works under his contract of service, or the Federal Territory Day,  
if the employee wholly or mainly works in the Federal Territory;
    - (iv) the Workers' Day; and
    - (v) Malaysia Day; and

b) on any day appointed as a public holiday for that particular year under section 8 of the Holidays Act 1951 [Act 369]:

Provided that if any of the public holidays referred to in paragraphs (a) and (b) falls on—

- (i) a rest day; or
- (ii) any other public holiday referred to in paragraphs (a) and (b),

the working day following immediately the rest day or the other public holiday shall be a paid holiday in substitution of the first mentioned public holiday.

- (1A) The employer shall exhibit conspicuously at the place of employment before the commencement of each calendar year a notice specifying the remaining six gazetted public holidays provided for in paragraph (1)(a) in respect of which his employees shall be entitled to paid holidays under paragraph (1)(a):

Provided that by agreement between the employer and an employee any other day or days may be substituted for one or more of the remaining six gazetted public holidays provided for in paragraph (1)(a):

And provided further that the employer may grant the employee any other day as a paid public holiday in substitution for any of the public holidays referred to in paragraph (1)(b).

- (1B) Where any of the public holidays or any other day substituted therefore as provided in subsection (1) or (1A) falls within the period during which an employee is on sick leave or annual leave to which the employee is entitled under this Act, or falls during the period of temporary disablement under the Workmen's Compensation Act 1952, or under the Employees Social Security Act 1969, the employer shall grant another day as a paid holiday in substitution for such public holiday or the day substituted therefore.
- (2) Any employee who absents himself from work on the working day immediately preceding or immediately succeeding a public holiday or two or more consecutive public holidays or any day or days substituted therefore under this section without the prior consent of his employer shall not be entitled to any holiday pay for such holiday or consecutive holidays unless he has a reasonable excuse for such absence.
- (2A) An employee on a monthly rate of pay shall be deemed to have received his holiday pay if he receives from his employer his monthly wages, without abatement (other than as provided under subsection (2)) in respect of the holiday, for the month in which the holiday falls.
- (3) (a) Notwithstanding subsections (1), (1A) and (1B), any employee may be required by his employer to work on any paid holiday to which he is entitled under the said subsections and in such event he shall, in addition to the holiday pay he is entitled to for that day—

- (i) in the case of an employee employed on a monthly, weekly, daily, hourly, or other similar rate of pay, be paid two days' wages at the ordinary rate of pay; or
- (ii) in the case of an employee employed on piece rates, be paid twice the ordinary rate per piece,

regardless that the period of work done on that day is less than the normal hours of work.

*(aa)* For any overtime work carried out by an employee referred to in subparagraph *(a)(i)* in excess of the normal hours of work on a paid public holiday, the employee shall be paid at a rate which is not less than three times his hourly rate of pay.

*(aaa)* For any overtime work carried out by an employee referred to in subparagraph *(a)(ii)* in excess of the normal hours of work on any paid holiday, the employee shall be paid not less than three times the ordinary rate per piece.

*(b)* An employee who works on a holiday shall be entitled to a travelling allowance for that day if payable to him under the terms of his agreement with his employer but such employee shall not be entitled under this subsection to receive an increased rate of any housing allowance or food allowance.

- (4) For the purposes of this section if any such holiday falls on a half working day, the ordinary rate of pay payable shall be that of a full working day.

#### **60J. Termination, lay-off and retirement benefits**

- (1) The Minister may, by regulations made under this Act, provide for the entitlement of employees to, and for the payment by employers of—

*(a)* termination benefits;

*(b)* lay-off benefits;

*(c)* retirement benefits.

- (2) Without prejudice to the generality of subsection (1), regulations made by virtue of subsection (1) may provide—

*(a)* for the definition of the expression —termination benefits, —lay-off benefits, or —retirement benefits, as the case may be, and for the circumstances in which the same shall be payable;

*(b)* for the application thereof to employees who were in employment under a contract of service immediately before the commencement of such regulations and who continue in such employment after the commencement thereof;

(c) for the application thereof to all employees generally or to any particular class, category or description of employees;

(d) for the exclusion from the application thereof of any particular employee or employees, or any class, category or description of employees;

(e) for the payment of different rates or amounts of termination benefits, lay-off benefits, or retirement benefits, as the case may be, to different classes, categories or descriptions of employees.

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