

Work hours and rest periods on farms

By Hannes Latsky, legal advisor, LWO Employers Organisation

Sectoral Determination 13 (SD13) is mainly responsible for regulating the hours that farm workers may work. This determination was published in the *Government Gazette* in terms of the *Basic Conditions of Employment Act, 1997* (Act 75 of 1997) or the *BCEA*, as amended.

There are other legislation and regulations that employers must take into account in order to protect the health and safety of employees. These include the *Code of Good Practice on the Arrangement of Working Time* (published in terms of the *BCEA*) and legislation pertaining to occupational health and safety.

Normal working hours

In terms of SD13, employees may work a maximum of 45 normal hours per week. There are other regulations as well, depending on the number of days the employee works per week (these working hours exclude daily meal breaks):

- If the employee works five days or less a week, the maximum permissible normal hours per day are limited to nine.
- If the employee works five or more days a week, the maximum permissible normal hours per day are limited to eight.

Meal breaks

SD13 stipulates that a farm worker is entitled to a one-hour meal break after five hours of continuous work. This break may be shortened to 30 minutes if a written agreement is in place.

Employees are not paid for meal breaks, but must receive compensation if he/she is expected to work through their lunch break if, for example, there are no other employees who can do the work and the work cannot wait. The employee must also receive compensation if he/she is expected to work during a break exceeding 75 minutes, except if he/she resides on the farm.

Overtime


Overtime is when an employee is required to work for a period of time that exceeds the employee's normal daily and weekly contracted hours. Overtime is strictly regulated. An employer may only require or allow a farm worker, as per agreement, to work a maximum of 15 hours overtime per week, and may not allow the farm worker to work more than 12 hours a day (including overtime).

Daily and weekly rest periods

SD13 also contains prescriptions relating to a daily rest period; in this regard, an employee gets at least

12 continuous hours of rest between shifts – if agreed upon, this period may be shortened to ten hours, provided the employee has a three-hour meal break and resides on the farm.

Likewise, the employer is required to give his/her farm workers 36 continuous hours per week off in which to rest, or alternatively a rest period of 60 continuous hours off every second week, if agreed upon. The rest period must include a Sunday, unless both parties agree otherwise.

In addition to the aforesaid practices, legislation does provide for other possible allocations of working hours for farm workers. For instance, it provides for the extension of normal working hours for farm workers, compressed working weeks, as well as an option allowing employers to apply for temporary exemption from the application of certain sections of the legislation. 

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