

Circular No: AG 15/2022

1 August 2022

To: **ALL MEMBERS**

Reduction of Maximum Working Hours from 48 Hours per week to 45 hours under Employment (Amendment) Act 2022

It has been widely reported that the Employment (Amendment) Act 2022 (“**Amendment Act**”), which amends certain provisions of the Employment Act 1955 (“**EA 1955**”), will come into effect on 1st September 2022.

2. Further to MEF Circular AG14/2022 dated 28 July 2022, this Circular addresses the amendments to the EA 1955 on the reduction of the maximum working hours per week from 48 hours to 45 hours, as guidance for employers to make decision on whether to review and/or rearrange their respective working hours to comply with the maximum of 45 hours per week.

Summary of Reduction of Maximum Working Hours per week to 45 hours

3. The Amendment Act 2022 reduces the maximum working hours per week to 45 hours, for all employees under the scope of EA 1955 irrespective of whether they are non-shift employees or shift employees.

A) Non-Shift employees

4. Aside from reducing the maximum working hours per week to 45 hours, the other existing provisions on working hours under section 60A(1) of EA 1955 remain status quo. Members are reminded that, subject to certain provisos, an employee shall not be required to work: -

- (a) more than 5 consecutive hours without a period of leisure of at least 30 minutes;
- (b) more than 8 hours in one day;
- (c) in excess of a spread over period of 10 hours in one day.

5. Members are further reminded that pursuant to section 60A(7) of the EA 1955, the maximum number of hours of work for non-shift employees is 12 hours a day. The limit of 8 hours per day is for normal working hours, and the 12-hour limit will be inclusive of the overtime hours.

6. It is also important to note that overtime is defined as the number of hours of work carried out in excess of the normal hours of work **per day**. The existing overtime limit is 104 hours per month in the aggregate. For the purposes of determining the overtime limit, work done on any rest day or public holiday, or any day substituted for a public holiday is not taken into account.

7. Proviso (iii) to section 60A(1) states that where, by agreement under the employment contract, the number of hours of work in one or more days is less than 8 hours, the limit of 8 hours may be extended to a maximum of 9 hours on the remaining days, *subject always to the maximum limit of 45 hours per week (note- emphasis provided to indicate the amendment to 45 hours per week)*.

B) Shift Employees

8. Members are reminded that “shift work” is defined as “...work which by reason of its nature requires to be carried on continuously or continually, as the case may be, by two or more shifts.”

9. Aside from the reduction of the maximum working hours per week to 45 hours, the other existing provisions in the EA 1955 that governs shift work remain status quo. Members are reminded that employees engaged in shift work may be required to work for more than 8 hours per day, subject to the requirement in paragraph 4 (a) above, *or more than **45 hours per week (note- emphasis provided to indicate the amendment to 45 hours per week), provided that the average number of hours worked over 3 weeks does not exceed **45 hours per week (note- emphasis provided to indicate the amendment to 45 hours per week)*****.

C) Scenarios for Non-Shift Employees – MEF’s Commentary

10. Paragraphs 4 to 7 above are referred. Whilst MEF is aware that companies may have different working hours arrangements, the scenarios below are examples relating to an average company: -

(a) Companies Working on an 8 hours per day (Excluding Break), 5 days per week.

- (i)* This is within the requirements of EA 1955, because the maximum 8 hours per day and correspondingly with total hours of work per week of 40 hours is within the limit of maximum working hours of 45 per week.
- (ii)* Overtime limit remains at the maximum 4 hours per day on the working days.
- (iii)* Employees working in excess of the 8 hours on their working days, and on their off day, i.e., the 6th day, will be paid overtime, calculated at the prevailing rate of 1.5 times the hourly rate. Employees working on a rest day / public holiday will continue to be paid on the statutory rates under the EA 1955.

(b) Companies working on 8 hours per day (Excluding Break), 6 days per week

- (i)* Whilst the 8-hour limit is adhered to for 5 days in the week, the Company can observe a further 5 hours on the 6th day, to ensure compliance to the maximum 45 working hours per week.
- (ii)* Overtime limit remains at the maximum 4 hours per day on 5 working days.
- (iii)* Employees working in excess of the 8 hours on the 5 working days, and in excess of the 5 hours on the 6th day, will need to be paid overtime, calculated at the statutory rate of 1.5 times hourly rate. Employees working on a rest day / public holiday will continue to be paid on the statutory rates under the EA 1955.

(c) Companies working on a 9 Hours Per Day (Excluding Break) 5 Days per week

Reference is made to paragraph 7 above. The proviso states that where, by agreement under the employment contract, the number of hours of work in one or more days is less than 8 hours,

the limit of 8 hours may be extended to a maximum of 9 hours on the remaining days, *subject always to the maximum limit of 45 hours per week (note- emphasis provided to indicate the amendment to 45 hours per week).*

Assuming that a company works 9 hours per day, for 5 days per week from Monday to Friday, employees working in excess of the 9 hours on their working days, and on their off day, i.e., the 6th day, will have to be paid overtime, calculated at the prevailing rate of 1.5 times the hourly rate. Employees working on a rest day / public holiday will continue to be paid on the statutory rates under the EA 1955.

D) Scenario for shift employees – MEF’s commentary

Paragraphs 8 and 9 above are referred to. As an illustration, it is possible for a shift employee to work in the following manner: -

SHIFT ROSTER

	Week 1	Week 2	Week 3
MONDAY	12	12	12
TUESDAY	12	12	3
WEDNESDAY	12	12	-
THURSDAY	12	12	-
FRIDAY	12	12	-
SATURDAY	-	-	-
SUNDAY	-	-	-
TOTAL	60	60	15

(i) Total working hours over 3 weeks: 60 hours + 60 hours + 15 hours = 135 hours.

Average working hours per week: 135 hours / 3 weeks = 45 hours.

(ii) Referring to the table above and as a further explanation of paragraph 9 above, although a shift worker’s hours of work is 12 hours, no overtime is payable.

E) Impact of 45 hours per week on the Calculation of Overtime

11. There is no amendment to Section 60I on the formula for calculation of overtime. The basis of overtime calculation is on the employee's Ordinary Rate of Pay ("**ORP**"). ORP means "wages" as defined in section 2 EA 1955, which an employee is entitled to receive under the terms of his contract of service for the normal hours for one day, but does not include any payment made under an approved incentive payment scheme or any payment for overtime, or for work done on a rest day or any gazetted public holiday granted by the employer under the contract of service or any day substituted for the gazetted public holiday.

12. The ORP for an employee employed on a monthly rate of pay is calculated according to the following formula: -

Monthly rate of pay

26 days

13. The ORP for an employee employed on a weekly rate of pay is calculated according to the following formula: -

Weekly rate of pay

6 days

14. In that regard, the overtime rates are to be distinguished from the sum known as the "rate of pay" that is payable to employees who work on a rest day / public holiday. In the scenario where employees work on a rest day / public holiday within the normal hours of work of the company, they will be paid an additional and separate sum which constitutes the rate of pay. Additionally, overtime at the statutory rates at the hourly rate of pay (HRP) will be payable if the employee works beyond the normal hours of work. The term "**Hourly Rate of Pay**" means the ORP divided by the normal hours of work.

MEF's Commentary

15. Members may need to adjust their working hours to ensure compliance with the new amendments. This may include extending the lunch break, or what is termed as “period of leisure” in the EA 1955 so that the normal hours of work is 7.5 hours on six (6) working days a week.

16. Members will be liable to pay overtime if their working hours exceed 45 hours per week.

17. Members who have different working arrangements from the scenarios stated in paragraph 10 above are encouraged to seek the clarification of MEF to ensure compliance to the new amendments.

Thank you.



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Executive Director