



Employment Relations Fact Sheet

Ministry of Internal Affairs
Government of the Cook Islands

Overtime

This fact sheet will provide workers and employers with general guidance on their rights and obligations in relation to overtime and overtime pay.

The modernising of **overtime** under the Employment Relations Act 2012 provides equity to both the employer and worker replacing the old regime of daily overtime entitlement in the Cook Islands of almost 50 years.

What is Overtime? - Overtime is the amount of time someone works beyond 40 hours per week.

Overtime pay is payment made to someone who works beyond 40 hours and is paid at a higher rate of pay.

An employer who requires or permits an employee to work overtime is required to pay the employee overtime pay for such overtime work.

Entitlement

The new arrangement in the Employment Relations Act 2012 will provide that all employees, unless exempt, who work more than 40 hours per week are entitled to be paid at time and one-half (T1.5) of their ordinary rate of pay for every hour worked in excess of 40 hours.

Grounds to refuse overtime

The overtime provisions in the Employment Relations Act 2012 will also give employees the right to refuse overtime work if it would be unreasonable to do so for example:

- the employee was not given sufficient notice of the extra hours; or
- there are health & safety issues.

Salaried Employees

In most cases, salaried employees are **exempt** from overtime pay; this is because salaried workers receive an annual salary for an annual output.

Under the Employment Relations Act 2012, salaried workers are not automatically entitled to receive overtime pay. However, an employer may provide their salaried employees with time off in lieu or an extra day of annual leave to compensate the salaried employee for the overtime worked.

Part Time & Casual Workers

All employees, unless exempt, are entitled to overtime pay. This includes part time & casual wage workers.

In respect of part time & casual wage workers, overtime pay only applies to hours worked in excess of 40 hours in any calendar week.

Illustrative example 1:

Mary is employed on a part time basis to work 25 hours per week. She is a wage worker and is paid \$9.00 per hour.

Mary's employer requests that she work overtime every night over the holiday period. At the end of the week, Mary had worked a total of 52 hours and is therefore entitled to receive pay for:

40 hours @ \$9.00 per hour

12 hours @ \$13.50 per hour (T1.5)

Illustrative example 2:

Jonathan is employed at a bakery on a full time basis to work 35 hours per week. He is a wage worker and is paid \$7.50 per hour.

Due to a staff shortage Jonathan's boss asks him to stay late and help clean up. At the end of the week Jonathan had worked a total of 38 hours.

Jonathan's employer is not obligated to pay overtime rates because Jonathan has not worked beyond 40 hours in a week.

An employer can provide overtime for hours worked in excess of the workers ordinary hours.

Where we were before the Employment Relations Act 2012

The Cook Islands Industrial and Labour Ordinance 1964 (Ordinance) provides that overtime is payable in every case where a worker is employed for any period in excess of the ordinary 8 hours a day of 40 hours a week.

The rate of pay for overtime varied i.e. if an employee works more than 8 hours but less than 13 hours per day attracts one and a half times the ordinary rate (T1.5), more than 13 hours per day attracts double the ordinary rate (T2).

Need more information?

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