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**GOVERNMENT NOTICE
GOEWERMENSKENNISGEWING**

**DEPARTMENT OF LABOUR
DEPARTEMENT VAN ARBEID**

No. R. 203

2 March 2001

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

MINISTERIAL DETERMINATION : WELFARE SECTOR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 50 of the Basic Conditions of Employment Act, 1997, make a Ministerial Determination establishing conditions of employment for employers and employees in the Welfare Sector, South Africa, in the Schedule hereto and determine the second Monday after the date of publication of this notice as the date from which the provisions of the said Ministerial Determination shall become binding.

M.M.S. MDLADLANA
Minister of Labour

SCHEDULE

MINISTERIAL DETERMINATION No. : WELFARE SECTOR

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1. Definitions

1.1 In this determination —

- (a) “welfare sector” means employers who renders non-profit social services in South Africa.
- (b) “working time” means time actually worked excluding standby periods.

3.1 Application

2.1 This determination applies to all employers and employees engaged in the welfare sector.

- 2.2 To the extent provided for in this determination, this determination varies the application of the Basic Conditions of Employment Act, No. 75 of 1997, to such employers and their employees.
- 2.3 Unless otherwise indicated, any word used in this determination has the same meaning as in the Basic Conditions of Employment Act, No. 75 1997.

4. Overtime

- 4.1 Despite section 10(1)(b)(ii) of the Basic Conditions of Employment Act, No. 75 of 1997, an employer may not require or permit an employee to work more than fifteen hours overtime a week.
- 4.2 Despite section 10(2) of the Basic Conditions of Employment Act, No. 75 of 1997, an agreement may provide for an employer to pay the normal wage for overtime worked and grant an additional week's leave on full pay per annum.

5. Averaging of hours

- 5.1 Despite sections (9)(1) and (2) and 10(1)(b) of the Basic Conditions of Employment Act, No. 75 of 1997 and clause 3 of this determination, the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement concluded by an employer and employee.
- 5.2 An employer may not require or permit an employee who is bound by an agreement in terms of sub clause 1 to work more than —
- (a) an average of forty-five ordinary hours of work in a week over the agreed period
 - (b) an average of ten hours overtime in a week over the agreed period.
- 5.3 An agreement in terms of sub-clause (1) lapses after twelve (12) months.
- 5.4 Sub-clause (3) only applies to the first two agreements concluded in terms of sub-clause (1).

6. Pay for work on Sundays

- 6.1 Despite section 16(1) of the Basic Conditions of Employment Act, No. 75 of 1997, an employer must pay an employee who works on Sunday the normal wage for each hour worked and be granted extra leave as follows:
- (a) employees who ordinarily work on a Sunday who work on average one Sunday per month be granted three extra days leave on full pay per annum;
 - (b) employees who ordinarily work on a Sunday who work on average two Sundays per month be granted six extra days leave on full pay per annum.

7. Night work

- 7.1 Despite section 17(2)(a) of the Basic Conditions of Employment Act, No. 75 of 1997, an agreement in writing, may permit an employee to waive his/her right to any payment of an allowance if the employee voluntarily requests or prefers to work night shifts.

8. Standby employees

- 8.1 Employees who are regularly required to be on standby must be granted one additional week's annual leave per annum.

(All the provisions of Ministerial determinations granted to Welfare organisations and institutions will be superseded by this determination with effect from the date of implementation.)
