

18. Pay for overtime/holidays

LABOUR REGULATION 2000

Non-Schedule work(er) – v/s – Schedule work(er)

The Labour regulation 2000 provides rules with regard to, among others: **the working hours, pause, periods of rest, labour in full-continuous shift, overtime, child labour, night labour, dangerous labour and labour by (live-in) domestic personnel.**

The Labour regulation 2000 is applicable to workers earning wages equal to or below the premium-limit for health insurance.

With the introduction of the Labour regulation 2000 on August 1st 2000, a distinction was made between **non-schedule workers** and **schedule workers**. There are different rules for both groups with regard to working hours, timetables etcetera.

In this document special attention will be given to the difference between a non-schedule worker and a schedule worker and their respective pay for overtime and pay for work on public holidays.

I. Non-Schedule work:

- work, not from overtime, performed during **regular office hours**:
 - between **07.00 – 20.00** hrs;
 - NOT on the **two parts of a day** (whether or not continuous) for example: all Saturday or only Saturday morning and Monday morning;
 - not on **Sundays**;
 - not on **holidays**.

In other words:

- Non-schedule workers are employees with a regular five/six day (on average not exceeding) **40-hours-working week**

II. Schedule work:

- Labour, not being overtime, performed according to a **periodical time table** on **different**, in view of the nature of the enterprise essential, **hours** and where as a result the **working time falls wholly or partially within the hours of rest** (art. 2 para 2 sub e Labour regulation 2000) as specified in article 9, first paragraph.

- Labour performed, according to a periodical timetable where as a result the working time falls **wholly or partially**:
 - before 07.00 and after 20.00;
 - on Sundays or days replacing Sunday;
 - on public holidays.

In other words:

	All sectors	Special sectors	
		Hospitality	Domestic Personnel
<p>Art 15 para 1:</p> <p>The employee receives per hour for overtime performed (i.e. working longer hours than the maximum number of hours allowed per day or per week) on top of the hourly wage applicable to him a bonus of not less than 50% of his hourly wage in</p>	<p>Wage +50% = (150%)</p>	<p>Wage + 50%</p> <p>=</p> <p>(150%)</p>	<p>Special rules apply</p> <p>(art. 25 para 1 sub f) Wage + 50%</p> <p>=</p> <p>(150%)</p>
<p>Art. 15 para 2:</p> <p>On top of the overtime bonus as mentioned in paragraph 1, the employee -not being a schedule worker - is entitled to an overtime bonus of:</p>			
<p>Art. 15 para 2a:</p> <p>Not less than 25% of his hourly wage, if overtime is performed during hours of rest as indicated in art. article 9, first para, sub c;(= two time table free part of a day); or</p>	<p>Wage + 50%</p> <p>+</p> <p>25%</p> <p>=</p> <p>(175%)</p>	<p>May revert to the regular overtime percentage</p> <p>(art. 15 para 1)</p>	<p>Special rules apply</p> <p>(art. 25 para 1 sub f)</p> <p>Wage + 50%</p> <p>=</p> <p>(150%)</p>
<p>Art. 15 para 2b:</p> <p>Not less than 50% of his hourly wage, if overtime is performed on his day of rest as in article 9, first para, sub b; or</p>	<p>Wage + 50%</p> <p>+</p> <p>50%</p> <p>=</p> <p>(200%)</p>	<p>Special rules apply</p> <p>Article 2 para 1 sub L Labour Decree Hospitality Industry.</p> <p>wage+50%</p> <p>+</p> <p>50%</p> <p>=</p> <p>(200%)</p>	<p>Special rules apply (art. 25 para 1 sub g)</p> <p>Labour performed on a day of rest will be awarded with a bonus of 100%.</p> <p>Wage + 100%</p> <p>=</p> <p>(200%)</p>

<p>Art. 15 para 2c:</p> <p>Not less than 100% of his hourly wage if overtime is performed on a holiday including what is stipulated in article 22, first para.</p>	<p>Wage + 50%</p> <p>+</p> <p>100%</p> <p>=</p> <p>(250%)</p>	<p>Special rules apply</p> <p>Article 2 para 1 sub L Labour Decree Hospitality Industry.</p> <p>wage+50%</p> <p>+</p> <p>50%</p> <p>=</p> <p>(200%)</p>	<p>Special rules apply (art. 25 para 1 sub g)</p> <p>Labour performed on a holiday will be awarded with a bonus of 100%.</p> <p>Wage + 100%</p> <p>=</p> <p>(200%)</p>
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- In (semi-) continuous services, hotel and catering industry, casinos etc.
- Schedule workers are employees on a five/six day (on average max) **45-hour working week** where labour may be performed at different hours (outside regular office hours).

Prohibition of certain timetables/working hours

The Secretary General is authorized to prohibit certain working hours or timetables in full or partially or to give obligatory recommendations if:

- a. the nature of the enterprise does not require labour during the working hours mentioned;
- b. the health or wellbeing of the employee makes it advisable (art. 28, third para)

NON-SCHEDULE WORKER COMPENSATION FOR OVERTIME

Rounding off: the total number of minutes will always be rounded off upwards in half hours
(art. 14 para 4 and art. 25, para 1 sub f and g)

NON-SCHEDULE WORKER

	All sectors	Special sectors	
		Hospitality	Domestic Staff
Art. 22 para 1:	Application of: not less than the normal wage.	Application of: not less than the normal wage.	Application of: not less than the normal wage.
If an employee works on a holiday he is entitled to not less than the wage he would have earned on that day during the normal time of labour, if that day was not a holiday.	=	=	=
	(100%)	(100%)	(100%)

WAGE ON HOLIDAYS

WORKING HOURS NON-SCHEDULE WORKER

Working hours

Up to a maximum of 10 hours per day and a maximum of 40 hours per week, calculated over a period of four weeks (*article 8 para 1*).

Working hours (including overtime)

Working hours, including overtime, may be **no more than 11 hours per day and 50 hours per week**, calculated over a period of four weeks, with the understanding that the total working hours including overtime, calculated over a period of 13 weeks may not be more than 45 hours. (*article 14 para 1*).

Deviation from this rule is allowed by way of collective labour agreement.

**SCHEDULE WORKER
COMPENSATION FOR OVERTIME**

	All sectors	Special sectors	
		Hospitality	Domestic Personnel
<p>Art 15 para 1:</p> <p>The employee receives per hour, on top of the hourly wage that is applicable in his case, an overtime bonus of 50% or more of his hourly wage in compensation. Overtime means working longer hours than the maximum working time allowed per day or per week.</p>	<p>Wage + 50%</p> <p>=</p> <p>(150%)</p>	<p>Wage + 50%</p> <p>=</p> <p>(150%)</p>	<p>Special rules apply</p> <p>(art. 25 para 1 sub f)</p> <p>wage + 50%</p> <p>=</p> <p>(150%)</p>
<p>Art. 15 para 3</p> <p>Next to the overtime bonus, as indicated in para 1, the employee working on a schedule receives an additional overtime bonus:</p>			
<p>Art. 15 para 3a:</p> <p>Not less than 25% of his hourly wage, in case overtime is performed during the period of rest as indicated in article 9, second para, sub c; (= two time table free part of a day);</p>	<p>Wage + 50%</p> <p>+</p> <p>25%</p> <p>=</p> <p>(175%)</p>	<p>May revert to the regular overtime percentage</p> <p>(art. 15 para 1)</p>	<p>May revert to the regular overtime percentage</p> <p>(art. 15 para 1)</p>
<p>Art. 15 para 3b:</p> <p>Not less than 25% of his hourly wage, in case overtime is performed on the same day as the one during which labour is performed in nightshift; or</p>	<p>Wage + 50%</p> <p>+</p> <p>25%</p> <p>=</p> <p>(175%)</p>	<p>May revert to the regular overtime percentage</p> <p>(art. 15 para 1)</p>	<p>May revert to the regular overtime percentage</p> <p>(art. 25 para 1 sub f)</p> <p>wage + 50%</p> <p>=</p> <p>(150%)</p>
<p>Art. 15 para 3c:</p> <p>Not less than 50% of his hourly wage, if overtime is performed on the day of rest according to his work schedule; or</p>	<p>Wage + 50%</p> <p>+</p> <p>50%</p> <p>=</p> <p>(200%)</p>	<p>Special rules apply:</p> <p>Art. 2 para 1 sub o Labour Decree Hospitality Industry.</p> <p>Wage + 50%</p> <p>+</p> <p>50%</p> <p>=</p> <p>(200%)</p>	<p>Special rules apply: (art. 25 para 1 sub g)</p> <p>Labour performed on a day of rest will be awarded with a bonus of 100%.</p> <p>Wage + 100%</p> <p>=</p> <p>(200%)</p>

<p>Art. 15 para 3d:</p> <p>Not less than 100% of his hourly wage, if the overtime was performed on a holiday, including what is stipulated in article 22, first paragraph.</p>	<p>Wage + 50%</p> <p>+</p> <p>100%</p> <p>=</p> <p>(250%)</p>	<p>Special rules apply</p> <p>Art. 2 para 1 sub o Labour Decree Hospitality Industry</p> <p>Wage + 50%</p> <p>+</p> <p>50%</p> <p>=</p> <p>(200%)</p>	<p>Special rules apply: (art. 25 para 1 sub g)</p> <p>Labour performed on holiday will be awarded with a 100% bonus.</p> <p>Wage + 100%</p> <p>=</p> <p>(200%)</p>
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Rounding off: the total number of minutes will always be rounded off upwards in half hours

(art. 14 para 4 and art. 25, para 1 sub f and g)

SCHEDULE WORKER WAGE ON HOLIDAYS

	All sectors	Special sectors	
		Hospitality	Domestic Personnel
<p>Art. 22 para 2:</p> <p>If an employee actually performs scheduled work on a holiday he is entitled to not less than double the wage he would have earned on that day during the normal time of labour, if that day was not a holiday. This as a deviation from the first paragraph.</p>	<p>Application of: not less than double wages.</p> <p>=</p> <p>(200%)</p>	<p>Application of: not less than double wages.</p> <p>=</p> <p>(200%)</p>	<p>Application of: not less than double wages.</p> <p>=</p> <p>(200%)</p>

WORKING HOURS SCHEDULE WORKER

Working hours

Up to a maximum of 10 hours per day and an average of a maximum of 45 hours per week, calculated over a period of four weeks (*article 8 para 2*).

Working hours (including overtime)

Working hours for schedule workers, including overtime, may be **no more than 11 hours per day and 55 hours per week**, calculated over a period of four weeks, with the understanding that the total working hours including

overtime, calculated over a period of 13 weeks may not be more than 50 hours. (*article 14 para 2*).

Deviation from this rule is allowed by way of collective labour agreement. [\[11\]](#)

WORKING HOURS HOTELS, RESTAURANTS AND CASINO'S

- working hours may be **48 hours maximum** per week, calculated over a period of 4 weeks, taking into account that working hours per day may not exceed **10 hours**.
- **working hours including overtime** may not exceed **55 hours** per week, calculated over a period of 4 weeks, taking into account that working hours per day may not exceed **11 hours**.
- Working hours per nightshift (i.e. when the employee works according to his timetable from midnight or onwards or before 06.00 hrs) excluding intermission may not exceed **8½ hours** per day.

WORKING HOURS DOMESTIC PERSONNEL

May not exceed 11 hours per day and 55 hours per week.

PUBLIC HOLIDAYS

1. New year's day
 2. Carnival Parade day
 3. Good Friday
 4. Easter Sunday
 5. Easter Monday
 6. Ascension day
 7. Whit Sunday (Pentecost)
 8. Queen's birthday
 9. 15th December "Kingdom Day"
 10. Christmas day (25 Dec.)
 11. Boxing day (26 Dec.)
 12. St Maarten Day 11/11
 13. Labour day
- (See: P.B. 2000 NO. 67)

OBLIGATIONS OF THE EMPLOYER

In principle it is the employer's choice to decide, in view of the nature of the activities of his enterprise, whether scheduled work will be applied or non-scheduled.

List of employees

Every enterprise needs to have a list of employees posted.

LIST OF EMPLOYEES, SPECIFYING TIMETABLES FOR SCHEDULE WORKERS, NEED TO BE SENT TO THE LABOUR AFFAIRS AGENCY.

The list of employees provides a systematic overview of:

- the various jobs in the enterprise
- the number of employees
- working hours and timetables
- hours of rest

List of employees forms can be obtained from the department.

Register of personnel

Upon request the employer has to produce a **register of personnel**.

A register of personnel has the names, dates of birth and nationalities of the employees. For workers who are legally allowed in St Maarten, the number and date of issue for the residence permit will be noted.

Overtime register

The employer is obliged to keep an **overtime register** and to submit this upon request. The register only has to cover one year in retrospect.

The register gives:

- the names of the employees who have performed overtime;
- the date on which overtime was performed;
- the duration of the overtime performed per employee;
- the compensation.