

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 18,862, 31 ta' Jannar, 2012

Taqsimha B

---

**A.L. 46 tal-2012**

**ATT DWAR L-IMPIEGI U R-RELAZZJONIJIET  
INDUSTRIJALI  
(KAP. 452)**

**Regolamenti tal-2012 dwar is-Sahra**

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 6 tal-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, il-Ministru għall-Ġustizzja, Konsultazzjoni Pubblika u l-Familja għamel dawn ir-regolamenti li ġejjin:-

**1.** (1) It-titolu ta' dawn ir-regolamenti huwa Regolamenti tal-2012 dwar is-Sahra. Titolu u skop.

(2) Dawn ir-regolamenti għandhom ikunu mingħajr preġudizzju:-

(a) għal kull ligi oħra maħruġa taħt l-Att li tirregola l-impieg *part-time*, u

(b) għar-Regolamenti tal-2003 dwar l-Organizzazzjoni tal-Hin tax-Xogħol. A.L. 247 tal-2003

**2.** (1) Għall-fini ta' dawn ir-regolamenti: Tifsiriet.

“l-Att” tfisser l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali; u

“Direttur” għandu jkollha l-istess tifsira mogħtija lilha bl-Att;

“sahra” għandu jkollha l-istess tifsira mogħtija lilha bl-Att.

(2) Frazzjonijiet u espressjonijiet użati f'dawn ir-regolamenti għandhom, kemm il-darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra, ikollhom it-tifsira mogħtija lilhom fl-Att.

Prinċipji ġenerali.

**3.** (1) Bla ħsara għas-subregolament (4) ta' dan ir-regolament, impjegati *whole-time* għandhom jaħdmu kull sahra kif meħtieġ mill-prinċipal tagħhom iżda illi l-ħin ta' xogħol medju fil-ġimgħa, inkluż is-sahra, ma jaqbiżx medja ta' tmienja u erbgħin siegħa fil-perjodu ta' referenza applikabbli skont ir-Regolamenti tal-2003 dwar l-Organizzazzjoni tal-Ħin tax-Xogħol.

(2) Id-dispożizzjonijiet tas-subregolament (1) ta' dan ir-regolament illi jillimita s-sahra maħduma għall-medja ta' tmienja u erbgħin siegħa fil-ġimgħa waqt l-perjodu ta' referenza applikabbli ma għandhomx japplikaw meta l-impjegat ikun ta l-kunsens tiegħu bil-miktub illi jaħdem aktar minn medja ta' tmienja u erbgħin siegħa fil-ġimgħa.

Hlas ta' sahra.

**4.** Impjegat illi r-rata ta' sahra tiegħu mhijiex koperta b' Ordni tal-Kunsill tal-Pagi biex jirregola l-Pagi għandu jithallas darba u nofs ir-rata normali għal xogħol maħdum li jaqbeż l-erbgħin siegħa fil-ġimgħa, medjat fuq perjodu ta' erba' ġimgħat jew fuq iċ-ċiklu tax-xift skont id-diskrezzjoni tal-prinċipal.

Sigħat annwalizzati.

**5.** (1) F' kull settur, kemm jekk dawn is-setturi jkunu koperti b'Ordni tal-Kunsill tal-Pagi biex jirregola l-Pagi u kemm jekk mhumiex, il-prinċipal jista' jintroduci skemi għall-*banking* ta' sigħat, fejn sa massimu ta' tliet mija u sitta u sebgħin siegħa normali ta' xogħol annwali f'kull sena kalendarja jistgħu jiġu *banked*, u għalhekk sigħat żejda minbarra s-sigħat normali ta' xogħol f'ġimgħa jithallew jinħadmu f'perjodi ta' attività ta' xogħol aktar intensiva illi jiġu mifdija f'perjodi ta' attività ta' xogħol anqas intensiva billi jkun hemm sigħat ta' xogħol anqas mis-sigħat normali ta' xogħol fil-ġimgħa.

Izda l-medja tal-ħin ta' xogħol fil-ġimgħa, inkluż is-sahra, m'għandiex taqbeż il-medja ta' tmienja u erbgħin siegħa fuq il-perjodu ta' referenza applikabbli f'termini tar-Regolamenti tal-2003 dwar l-Organizzazzjoni tal-Ħin tax-Xogħol, sakemm l-impjegat ikkonċernat ma jkunx ta l-kunsens tiegħu bil-miktub biex jaħdem aktar minn medja ta' tmienja u erbgħin siegħa.

(2) Is-sigħat ta' xogħol li jistgħu jiġu *banked* għandhom ikunu limitati għal dawg is-sigħat f' kull ġurnata fil-ġimgħa li tattira ir-rata normali ta' pagament fis-siegħa. Bl-istess mod, kull siegħa ta' xogħol li tkun giet *banked* biex tkun tista' tiġi uttilizzata f'ġimgħat ta' attività ta' xogħol anqas intensiva għandhom jiġu hekk uttilizzati f'ġurnata ta' xogħol fil-ġimgħa li tithallas b'rata normali.

(3) Bla ħsara għad-dispożizzjonijiet speċifiċi fis-subregolamenti (4) u (5) (e), (f) u (g) ta' dan ir-regolament, kull siegħa li tkun giet *banked* għandha titqies illi ma tattirax xi rimunerazzjoni aktar mir-rata normali ta' gurnata jew ta' ġimgħa, skont il-każ, u klawnsoli f'kull Ordni jew regolament maħruġa taħt l-Att applikabbli li jispeċifikaw rati partikolari ta' rimunerazzjoni għal sigħat ta' xogħol li jaqbzu sigħat ta' xogħol fil-gurnata jew fil-ġimgħa kif speċifikati ma għandhomx japplikaw f'dawn iċ-cirkostanzi.

(4) Kull siegħa maħduma f'kull gurnata li tattira rata speċjali ta' ħlas skont xi liġi, regolament, ordni, ftehim kollettiv jew kuntratt individwali għandhom jiġu esklużi minn kull sistema ta' *banking* u għandhom jithallsu skont il-prattika normali sakemm ma l-partijiet jifthiemu mod ieħor, f'każ bħal dan, in-numru ta' sigħat li jridu jiġu *banked* għandhom jiġu kalkulati u għandhom jirriflettu r-rata speċjali ta' ħlas fis-siegħa.

(5) Kull skema ta' *banking* ta' sigħat għandha taderixxi ma' li ġej:

(a) l-impjegat jingħata avviż bil-miktub minn qabel tan-numru ta' sigħat u roster li trid tinħadem fl-erba' ġimgħat li jkun imiss skont l-iskema tal-*banking* ta' sigħat;

(b) il-prinċipal għandu jkollu l-possibilita' li jbidel is-sigħat fil-ġimgħa li jridu jinħadmu fil-ġimgħa li jkun imiss sakemm avviż bl-miktub f'dan is-sens jingħata mill-anqas ġimgħa qabel dik il-bidla;

(c) il-paga bażika ta' ġimgħa għandha tibqa' kostanti matul is-sena kollha;

(d) impjegati *part-time* u *whole-time* b'sigħat imnaqqsa ma għandhomx ikunu obbligati jipparteċipaw fi skema ta' *banking* u ma għandhom isofru l-ebda detriment mill-prinċipal jekk ma jaqblux illi jipparteċipaw f'dik l-iskema;

(e) f'każijiet fejn il-kuntratt tal-impieg ikun gie mitmum għal xi raġuni;

(i) qabel ma s-sigħat *banked* jistgħu jiġu mifdija, dawk is-sigħat *banked* li jkun fadal għandhom jithallsu skont ir-rata ta' sahra applikabbli fis-seħħ fid-data tat-terminazzjoni, sad-data tal-gurnata meta titfallas il-paga

li jkun imiss; iżda illi fil-każ ta' impjegati *part-time* jew *whole-time* li qed jippartecipaw, kull siegħa *banked* għandha biss tiġi mhallsa bir-rata ta' sahra applikabbli jekk it-total ta' sigħat maħduma minn dawk l-impjegati meta tittieħed il-medja, jaqbzu s-sigħat normali ta' impjegat *whole-time* komparabbli; u

(ii) fejn jinħadmu sigħat anqas mill-medja ta' sigħat fis-sena, il-prinċipal ma għandux ikun intitolat illi jitlob li jiġu rkuprati s-sigħat li ma kienux attwalment inħadmu;

(f) l-impjegat jista' jinħtiegħ illi jaħdem iżjed mis-sigħat tax-xogħol skedati f'gurnata partikolari kif imsemmi f'paragrafi (a) jew (b) ta' dan is-subregolament imma f'każ bħal dan, dawk is-sigħat żejda għandhom jiġu mhallsa bir-rati ta' sahra skont ir-rati ta' sahra applikabbli;

(g) jekk fl-aħħar tas-sena kalendarja jkun jifdal sigħat *banked* li ma jkunux ġew mifdiya, dawk is-sigħat għandhom jithallsu bir-rata ta' sahra applikabbli sakemm il-prinċipal u l-impjegat ma jkunux qablu bil-miktub li jittrasferixxu sa massimu ta' 160 siegħa *banked* għas-sena kalendarja ta' wara. Dawk is-sigħat *banked* ittrasferiti mis-sena preċedenti għandhom jintuzaw l-ewwel u m'għandhomx jerġgħu jiġu trasferiti; u

(h) id-Direttur ikun awtorizza l-introduzzjoni tal-iskema tal-*banking* ta' sigħat u fl-awtorizzazzjoni jista' jimponi kull kundizzjoni li titqies neċessarja.

(6) Kull skema li tiġi introdotta mill-prinċipal għandha tkun bla ħsara għad-dispożizzjonijiet ta' kull ftehim kollettiv applikabbli u fis-sehħ fil-post tax-xogħol sakemm il-partijiet ta' dak il-ftehim ma jaqblux xort' oħra.

(7) Meta skema tkun giet debitament awtorizzata, kull dispożizzjoni f'kull Ordni tal-Kunsill tal-Pagi biex Jirregola l-Pagi illi jispeċifika rati ta' ħlas għal xogħol partikolari, ma għandux japplika fil-każ ta' xi konflitt mad-dispożizzjonijiet ta' dawn ir-regolamenti u d-dispożizzjonijiet ta' dawn ir-regolamenti għandhom jipprevalu.

6. Fir-rigward ta' kalkulazzjoni ta' sigħat illi jiġu mnaqqsa mid-dritt tal-leave annwali u tal-leave għall-mard meta dawn jittieħdu mill-impjegat, is-sigħat ta' xogħol li jridu jiġu mnaqqsa minn dak id-dritt annwali għandu jkun in-numru ta' sigħat li kienu skedati illi jinħadmu mill-impjegat skont l-iskeda maħruġa mill-prinċipal skont ir-regolament 5 ta' dawn ir-regolamenti.

*Leave* kull sena u *leave* għall-mard.

7. (1) Meta impjegata li qed tipparteċipa fi skema għall-*banking* ta' sigħat tiegħu *leave* tal-maternita` jew *leave* ieħor bi ħlas mhux imsemmi fir-regolament 6 ta' dawn ir-regolamenti, dik l-impjegata għandha tirċievi l-pagi normali li jridu jithallsu fir-rigward ta' dak il-*leave* tal-maternita` jew ta' xi *leave* ieħor, skont il-każ, u d-dispożizzjonijiet tar-regolament 5 (c) għandhom ikomplu japplikaw. Waqt dan l-*leave*, dik l-impjegata għandha titqies illi ħadmet l-istess numru ta' sigħat li kienu skedati li jinħadmu skont dik l-iskeda sew jekk dawn is-sigħat ikunu aktar sew anqas, is-sigħat normali li normalment jinħadmu barra l-iskeda, u dawk is-sigħat *banked* għandhom jiġu kunsidrati illi ġew ikkreditati jew debitati, skont il-każ, u għandhom jiġu kunsidrati għall-finijiet u l-effetti kollha, bl-istess mod li japplika għal sigħat simili illi ġew ikkreditati jew debitati minn impjegati oħra illi qed jipparteċipaw f'dik l-iskeda.

*Leave* tal-Maternita` u *leave* ieħor u l-*banking* tas-sigħat.

(2) Meta impjegat li qed jipparteċipa fi skema għall-*banking* ta' sigħat qiegħed fuq *leave* bla ħlas, huwa għandu jiġi meqjus li ħadem l-istess numru ta' sigħat li kienu skedati li jinħadmu skont dik l-iskeda sew jekk dawn is-sigħat ikunu aktar sew anqas, is-sigħat normali li normalment jinħadmu barra l-iskeda, u dawk is-sigħat *banked* għandhom jiġu kunsidrati illi ġew ikkreditat jew debitati, skont il-każ, u għandhom jiġu kunsidrati għall-finijiet u l-effetti kollha, bl-istess mod li japplika għal sigħat simili illi ġew ikkreditati jew debitati minn impjegati oħra illi qed jipparteċipaw f'dik l-iskeda.

**L.N. 46 of 2012**

**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT  
(CAP. 452)**

**Overtime Regulations, 2012**

In exercise of the powers conferred by article 6 of the Employment and Industrial Relations Act, the Minister for Justice, Dialogue and the Family has made the following regulations:-

Title and scope

**1.** (1) The title of these regulations is the Overtime Regulations, 2012.

(2) These regulations shall be without prejudice to-

(a) any other law issued under the Act regulating part-time employment, and

LN 247 of 2003.

(b) the Organization of Working Time Regulations, 2003.

Definitions.

**2.** (1) For the purpose of these regulations:

“the Act” means the Employment and Industrial Relations Act; and

“Director” shall have the same meaning assigned to it by the Act;

“overtime” shall have the same meaning assigned to it by the Act.

(2) Terms and expressions used in these regulations, unless the context otherwise requires, shall have the same meaning assigned to them in the Act.

General principles.

**3.** (1) Subject to sub-regulation (4) of this regulation, whole-time employees shall work any overtime as required by their employer provided that the average weekly working time, including overtime, does not exceed an average of forty-eight hours over the applicable reference period in terms of the Organization of Working Time Regulations, 2003:

(2) The provisions of sub-regulation (1) of this regulation limiting the overtime worked to a weekly average of 48 hours during the applicable reference period shall not apply where the employee has given his consent in writing to work more than a weekly average of forty-eight hours.

4. An employee whose overtime rate is not covered by a Wages Council Wage Regulation Order shall be paid one and a half times the normal rate for work carried out in excess of a forty hour week, averaged over a four week period or over the shift cycle at the discretion of the employer. Payment of overtime.

5. (1) In all sectors, whether these sectors are covered by a Wages Council Wage Regulation Order or not, the employer may introduce schemes to bank hours, whereby up to three hundred and seventy-six hours of the normal annual working hours in each calendar year may be banked, thus allowing extra hours over and above the normal weekly working hours to be worked during periods of higher work activity which would be redeemed during periods of lower activity by having working hours below the normal weekly working hours. Annualized hours.

Provided that the average weekly working time, including overtime, shall not exceed an average of forty-eight hours over the applicable reference period in terms of the Organization of Working Time Regulations 2003, unless the employee concerned has given his consent in writing to work more than a weekly average of forty-eight hours.

(2) The hours of work which may be banked shall be limited to those hours on any day in a week which attract the normal hourly rate of payment. Similarly, any hours of work which have been banked in order to be utilized during weeks of lower work activity shall only be so utilized on a weekly day of work where the hours of work are paid at a normal rate.

(3) Subject to the specific provisions in sub-paragraphs (4) and (5) (e) (f) and (g) of this regulation, any banked hours shall be considered not to attract any remuneration above the normal daily or weekly rate as the case may be, and clauses in any applicable Order or regulation under the Act which specify particular rates of remuneration for hours of work in excess of a specified daily or weekly amount of hours shall not apply in these circumstances.

(4) Any hours worked on any day which attracts a special rate of pay in terms of any law, regulation, order, collective agreement or individual contract shall be excluded from any banking system and shall be paid for in accordance with normal practice unless the parties agree otherwise, in which case, the number of hours to be banked shall be calculated on and shall reflect the special hourly rate of pay.

(5) Any scheme of banking of hours shall comply with the following:

(a) the employee is given prior written notice of the number of hours and roster to be worked in the following four weeks under the banking of hours scheme;

(b) the employer shall have the possibility of making an alteration of the weekly hours to be worked in the following week as long as at least one week's written notice is given of such a change;

(c) the weekly basic wage shall remain constant throughout the year;

(d) part-time and whole-time employees with reduced hours shall not be obliged to participate in a scheme to bank hours and shall not suffer any detriment by the employer for failing to agree to participate in such a scheme;

(e) in cases where the contract of employment is terminated for whatever reason;

(i) before the banked hours could be redeemed, such outstanding banked hours are to be paid at the applicable overtime rate in force on the date of termination, by the date of the next pay day; provided that in the case of participating part-time employees or whole-time employees with reduced hours, any banked hours shall only be paid at the applicable overtime rate if the total hours worked by such employees when averaged exceed the normal hours of work of a comparable whole-time employee; and

(ii) where lesser hours than the yearly average have been worked, the employer shall not be entitled to claim a refund in respect of hours not actually worked;



(f) the employee may be required to work in excess of the scheduled hours of work on a particular day as referred to in paragraph (a) or (b) hereof but in such a case, such extra hours are to be paid at overtime rates at the applicable overtime rates;

(g) if at the end of a calendar year there are outstanding banked hours which have not been redeemed, such hours are to be paid at the applicable overtime rate unless the employer and employee have agreed in writing to transfer up to 160 banked hours to the next calendar year. Such banked hours carried forward from the previous year shall be utilised first and shall not be carried forward again; and

(h) the Director has authorised the introduction of the banking hours scheme and in so doing may impose any conditions deemed necessary.

(6) Any scheme to be introduced by an employer shall be without prejudice to the provisions of any applicable collective agreement in force at the workplace unless the parties to such an agreement otherwise agree.

(7) When a scheme has been duly authorized, any provision in any Wage Council Wage Regulation Order specifying rates of pay for particular work, shall, in the case of any conflict with the provisions of these regulations, not apply and the provisions herein shall prevail.

6. With respect to calculation of hours to be deducted from the annual leave or sick leave entitlement when these are availed of by an employee, the hours of work to be deducted from such annual entitlement shall be the number of hours which have been scheduled to be worked by the employer in accordance with the schedule issued by the employer in terms of regulation 5 of these regulations.

Vacation leave and sick leave

7. (1) When an employee participating in a scheme for banking of hours takes maternity leave or other paid leave not referred to in regulation 6 of these regulations, that employee shall receive the normal wages which may be due in respect of the maternity leave or other leave, as the case may be, and the provision of regulation 5 (c) of these regulations shall continue to apply. During such leave, such an employee shall be considered to have worked the same number of hours scheduled to be worked

Maternity and other Leave and banking of hours

by virtue of such a scheme, whether these are above or below the normal hours usually worked outside the scheme, and such banked hours shall be considered to have been credited or debited, as the case may be, and be considered for all intents and purposes, in the same way as would apply to similar hours credited or debited by other employees participating in such a scheme.

(2) When an employee participating in a scheme for banking of hours is on unpaid leave, he shall be considered to have worked the same number of hours scheduled to be worked by virtue of such a scheme, whether these are above or below the normal hours usually worked outside the scheme, and such banked hours shall be considered to have been credited or debited, as the case may be, and be considered for all intents and purposes in the same way as would apply to similar hours credited or debited by other employees participating in such a scheme.

