

Financial Solutions for  
Business Owners



## **EFFECT OF SICK LEAVE ON OVERTIME PAY**

**Question:** How does an employee's absence due to illness affect overtime pay?

**Answer:** The basis on which an employee is remunerated may be affected if the employee's actual working hours are reduced as a result of sick leave.

**Brief explanation:** In terms of the Basic Conditions of Employment Act an employee is entitled to pay at the overtime rate of one and one-half times the normal rate if the employee works for more than 45 hours per week (While it also applies where the normal daily hours are exceeded, it is unnecessary for the purposes of this discussion). The BCEA is silent on whether paid time for sick leave should be taken into account when calculating overtime pay. If the employee is absent due to illness during a particular week, such hours of absence therefore do not have to be taken into account for the purposes of calculating overtime pay. It would be in order to pay the employee at the overtime rate only to the extent that the employee actually worked in excess of 45 hours in that week.

**The following is an example:** An employee normally works six days per week, which include 8 hours per day from Monday to Friday, and 5 hours on a Saturday (i.e. 45 hours per week). In a particular week the employer asks the employee to work an additional 3 hours on the Saturday, which would normally amount to 'overtime' and remunerated at the overtime rate. However, in that week the employee takes paid sick leave on the Wednesday. As a consequence, the employee only worked 40 hours. This means that, in addition to being paid a full day's pay for the day on the employee was sick, the employee will be paid for the 40 hours at the normal rate. In other words, the additional 3 hours for work on the Saturday would not be at the overtime rate but at the normal rate of pay.

The above could be applied as a general rule, but is subject to the wording of the contract of employment that may contain more favourable provisions with regard to what will be regarded as 'overtime'.

**Further comments:** The same principle will apply in other cases where the employee is absent, but still entitled to payment, e.g. annual leave, family responsibility leave, or a public holiday.

*Article written by Jan Truter of Labourwise*

[www.labourwise.co.za](http://www.labourwise.co.za) is an on-line labour relations service aimed at assisting employers with the implementation of effective labour relations. They can be contacted via the website or [info@labourwise.co.za](mailto:info@labourwise.co.za).