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Employer's Organisation for
Hairdressing • Cosmetology • Beauty

**ADDING VALUE TO
YOUR BUSINESS**

THE JOURNAL

**SHORT TIME / REDUCED
WORKING HOURS**

Dear EOHCB Member,

The EOHCB has been posed with questions regarding implementing short time since the declaration of COVID-19 as a national disaster in the Republic of South Africa. We wish to share with members the process of invoking short time in the workplace and to provide guidance through draft documents and consultation.

Please note that government has made amendments to the Unemployment Insurance Fund and now allows employees who have been placed on short-time (reduced working hours) to claim. Please ensure that all UIF contributions are up to date.

We wish to reiterate what the Minister of Labour and Employment announced on 16 March 2020 at a special Nedlac executive committee meeting:

1. Health and safety risk assessments need to be conducted in all workplaces. Guidelines and checklists in this regard will be made available on www.labour.gov.za
2. Employers are expected to implement extremely strict hygiene provisions (facilities for handwashing are imperative).
3. If an employee needs to self-isolate due to international travel or exposure to an infected individual, such self-isolation period will be compensated by the UIF as special leave.
4. If a business needs to close due to potential exposure, UIF will send officials to workplaces to assist with registering the UIF claims of employees.
5. There will be interventions available to businesses that become distressed due to COVID-19. These will be made available by Treasury (no details available yet).
6. Employees who contract the virus during their employment will have a claim in terms of COIDA.

The process of invoking short-time:

1. The Main Collective Agreement of the Industry:

20.1 An employer that elects to implement short time must notify in writing all employees concerned and give at least 1 (one) week notice thereof.

20.2 An employee who is not given the specified notice is entitled to payment of full wages in lieu of notice.

20.3 Annual leave shall accrue at the full rate of entitlement during any period that an employee is required to work short time.

- An employee who works short time and works less than 4 hours per day, must be remunerated for at least 4 hours per day as prescribed in the National Minimum Wage Act of 2018.
- The affected employee(s) must be consulted by the employer regarding the implementation of short time. Employees need to understand the reason(s) for the short time implementation and the duration of the temporary reduced hours/days of work. Written consent must be reached by both the employer and employee to implement short time.
- Where an employee does not consent to the implementation of short-time, and the employer has sound reasonable reason(s) to invoke short time, the employee runs the risk of being dismissed based on operational requirements of the business (retrenchment).
- Should the employee(s) be members of a trade union, the trade union should be consulted prior to the implementation of the short time.
- Employers are obligated to keep employee(s) updated to developments pertaining to the reason(s) for implementing short time and whether there is an improvement or further decline.
- Should the entire workforce not be affected by the implementation of short-time, its recommended that LIFO is applied for the selection of the employee(s) to be put on short-time. LIFO – Last in first out. Alternatively, employee(s) who don't generate an income for the business should be considered for short-time.

2. Short time procedures **specifically for EOHCB members only** who are in good standing (no arrears and compliant to the provisions of the main collective agreement):
 - 20.1 An Employer that elects to implement short time must notify in writing all Employees concerned and give at least 1 (one) week notice thereof.
 - 20.2 An Employee who is not given the specified notice is entitled to payment of full wages in lieu of notice.
 - 20.3 Annual leave shall accrue at the full rate of entitlement during any period that an Employee is required to work short time.
 - 20.4 The purposes of this clause 20.4 to clause 20.14 shall be distinguishable from the provisions of clause 20.1 to 20.3 above, in that, for purposes of this clause 20.4 to clause 20.14 "Short Time" shall be defined as the implementation of reduced working time i.e. a lesser number of hours per day or a lesser number of days per week that may be brought about as a result of an Employer being unable to conduct the business activities of an Establishment due to unforeseen circumstances, other than operational requirements within the meaning of section 189 of the Act.
 - 20.5 Only members of the Employers' Organisation i.e. a Party, whose Establishments are duly registered within the meaning of clause 6.1 above and are not disqualified within the meaning of clause 6.4 above, shall be entitled to invoke Short Time.
 - 20.6 Should the need arise for an Employer to invoke Short Time, the Employer shall: -
 - 20.6.1 furnish the affected Employees and the Trade Union (in so far as the affected Employees are members of the Trade Union) and the Council with 10 (ten) clear calendar days' notice of the intention to invoke Short Time ("the notice period");

- 20.6.2 during the notice period, the Employer shall consult with the Trade Union (through its officials and elected shop stewards) (insofar as Employees are members of the Trade Union) and with Employees who are not members of the Trade Union to, amongst others, discuss the reasons for the Short Time to be invoked, the period of time that the Short Time will be implemented and the effect that the Short Time will have on the working hours of Employees.
- 20.7 During Short Time: -
- 20.7.1 the Employer shall, as far as practically possible, divide work that may be available amongst the Employees that are affected by the Short Time;
- 20.7.2 the Employer shall not be required to pay to the Employees their Basic Salary or Wages, and will only be paid per hour for the time that the Employees actually work;
- 20.7.3 all deductions, excluding subscriptions to the Employers' Organisation and the Trade Union will be paid on a pro-rata basis in respect of time actually worked;
- 20.7.4 an Employer shall furnish the affected Employees and the Trade Union, if applicable, and the Council with 5 (five) clear calendar days' notice of the intention to increase or further reduce working time;
- 20.7.5 whilst not working, the Employee may render services to any other Employer for Remuneration;
- 20.7.6 the affected Employee shall, within 48 (forty-eight) hours after having received notice of the Employer's election to terminate Short Time, return to the workplace to take up their duties.

- 20.8 An Employer shall not be entitled to implement Short Time for a period longer than 6 (six) months unless extraordinary circumstances are present which requires the implementing of Short Time for longer period than 6 (six) months.
- 20.9 In the event of the circumstances causing the Employer to invoke Short Time, be of such nature that it is impossible to furnish the affected Employees and Trade Union (in so far as the affected Employees are members of the Trade Union) with the notice as contemplated in clause 20.6.1, then, in such event, the Employer after having informed the affected Employees and Trade Union (in so far as the affected Employees are members of the Trade Union) of the election to invoke Short Time, may invoke the Short Time with immediate effect (“the Urgent Short Time”).
- 20.10 Should the affected Employees that are members of the Trade Union or the Trade Union dispute the necessity to invoke Urgent Short Time (“the dispute”), the dispute shall be escalated to the representatives of respectively the Trade Union and Employers’ Organisation in whose area the Establishment is situated (“the representatives”).
- 20.11 The representatives shall use their best endeavours, without having to embark on any formal process to resolve the dispute.
- 20.12 In the event of the representatives being unable to resolve the dispute as to whether the circumstances justify Urgent Short Time being implemented, within 72 (seventy two) hours of the Urgent Short Time being implemented, the dispute shall be escalated by any of the Trade Union or Employers’ Organisation to the Council. The Council shall, upon being notified of such dispute, appoint its external legal representative to investigate the dispute adopting any process or proceedings within the sole and absolute discretion of the legal representative, and advise the parties of his or her determination, which will be made within 72 (seventy two) hours from the dispute being referred to the Council.
- 20.13 The legal representative’s determination will be final and binding on the parties.

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20.14 The process contemplated in clauses 20.9 to 20.13 shall mutatis mutandis apply should the affected Employees or Trade Union dispute the Short Time being implemented for a period exceeding 6 (six) months as contemplated in clause 20.8 above

Once the consultation has concluded, the processes and affected employee(s) have been identified and informed in writing, the notice to the union and council document needs to be completed and signed by all affected employees and the employer and communicated to the union and the council before the implementation of short-time. Should the status of short time change and the employee(s) are required to return to work as usual, at least 48 hours' notice must be served to the affected employee(s).

Please feel free to contact your EOHCB representative for more information or for assistance with implementing short time.

The EOHCB wishes to encourage our members to make use of the draft documents provided below. Should a member wish to have these in a Microsoft Word format, please email your EOHCB representative.



If you display any signs of the Covid-19 virus, **don't go to the doctor/pharmacist or nurse** and infect everybody in the practice. Call the hotline



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Your Company
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Name of Employee: _____

Date: _____

NOTIFICATION OF INTENTION TO INVVOKE SHORT TIME MEASURES.

1. Definition of Short Time:

“Short Time” shall be defined as the implementation of reduced working time i.e. a lesser number of hours per day or a lesser number of days per week that may be brought about as a result of an Employer being unable to conduct the business activities of an Establishment due to unforeseen circumstances, other than operational requirements within the meaning of section 189 of the Labour Relations Act, 1995.

2. Reason for short time measures:

On the 11th of March 2020 the World Health Organisation (“the WHO”) officially declared that the spread of Coronavirus had reached the level of a pandemic. Furthermore, President Cyril Ramaphosa declared a state of disaster in the country on Sunday the 15th of March. In respect of the workplace immediate steps must be taken in order to attempt to diminish its impact.

3. The effect on the working conditions of Employees:

- Employees will be required to work lesser number of hours per day or a lesser number of days per week.
- Employees will be remunerated per hour for the time that the Employees actually work.
- Annual leave shall accrue at the full rate of entitlement during any period that an Employee is required to work short time.
- All deductions, excluding subscriptions to the Trade Union will be paid on a pro-rata basis in respect of time actually worked;

- The Employer shall, as far as practically possible, divide work that may be available amongst the Employees that are affected by the Short Time;
- Whilst not working, the Employee may render services to any other Employer for Remuneration;

4. **Notice periods:**

An Employer that elects to implement short time must notify in writing all Employees concerned and give at least 1 (one) week notice thereof. An Employee who is not given the specified notice is entitled to payment of full wages in lieu of notice.

It is proposed that any notice of short time will be given effect from _____.

The affected Employee shall, within 48 (forty-eight) hours after having received notice of the Employer's election to terminate Short Time, return to the workplace to take up their normal duties.

5. **Opportunity for feedback**

The employee has got the right to provide feedback or make alternative recommendations in writing within 48 hours of receiving this notification.

You are encouraged to make contact with your Union representative should you seek representation.

The Company fully appreciates your support during this time and we will keep you updated as to the current situation.

Yours faithfully,

EMPLOYER NAME

SIGNATURE

Acknowledgement of receipt:

EMPLOYEE NAME

SIGNATURE

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Name of Employee: _____

Date: _____

Notice of Short Time Working

Following our meeting on _____ this letter serves to confirm that due to the current state of disaster it has become necessary to place you on short time working for a temporary period of time.

It is expected that while working short time you will be working **three days per week or ___ hours per day.** (*delete aspects that are not applicable or insert other relevant details*).

The changes will come into effect from _____ and will be reviewed as the situation develops. During this time, you will be entitled to be remunerated based on the number of hours you have worked. Annual leave shall accrue at the full rate of entitlement. All deductions, excluding subscriptions to the Trade Union will be paid on a pro-rata basis in respect of time actually worked.

You will be given 48 hours' notice of election to terminate short time after which you will be expected to return to your usual working conditions.

The Company fully appreciates your support during this time and we will keep you updated as to the current situation.

Yours faithfully,

EMPLOYER NAME

SIGNATURE

Acknowledgement of receipt:

I have read and understood the proposed changes.

SIGNATURE

DATE



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NOTIFICATION OF INTENTION TO INVVOKE SHORT TIME MEASURES.

Salon Name:	
Salon Number:	
EOHCB Member:	
Date Short time comes into effect:	
Short time measures:	

Employee Name and Surname	Union Member	Signature