

EMPLOYMENT ACT 1955
EMPLOYMENT (PART-TIME EMPLOYEES) REGULATIONS 2010

IN exercise of the powers conferred by subsection 2(4A) of the Employment Act 1955 [Act 265], the Minister makes the following regulations:

Citation and commencement

1. (1) These regulations may be cited as the **Employment (Part-Time Employees) Regulations 2010**.

(2) These Regulations come into operation on 1 October 2010.

Interpretation

2. In these Regulations, “normal hours of work” means the hours of work as agreed in the contract of service or as determined under regulation 4, as the case may be.

Non-application

3. These Regulations shall not apply to a part-time employee—

(a) who is engaged occasionally or on an irregular basis, as and when needed, and whose working hours in one week does not exceed thirty per centum of the normal hours of work of a full time employee in one week (who is also known as a casual employee); and

(b) who performs work for an employer within the employee’s residence, irrespective of occupation (who is also known as a home working employee).

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Normal hours of work of part-time employee where normal hours of work of full time employee cannot be ascertained

4. (1) Where the normal hours of work of a full time employee cannot be ascertained or there is no full time employee employed in a similar capacity in the same enterprise, the normal hours of work of a full time employee shall be deemed to be eight hours in one day or forty eight hours in one week.

(2) In the circumstances mentioned in subregulation (1), the normal hours of work of a part-time employee shall be seventy per centum of the normal hours of work of such full time employee.

Payment of hourly rate beyond normal hours of work

5. (1) If a part-time employee is required by his employer to work beyond his normal hours of work, the employer shall pay the part-time employee for such extra work at the following rates:

(a) not less than his hourly rate of pay for each hour or part thereof which exceeds the normal hours of work of the part-time employee but does not exceed the normal hours of work of a full time employee employed in a similar capacity in the same enterprise; and

(b) not less than one and a half times the hourly rate of pay of the parttime employee for each hour or part thereof which exceeds the normal hours of work of a full time employee employed in a similar capacity in the same enterprise.

(2) Any employer who fails to pay any part-time employee for any work done beyond his normal hours of work in accordance with the rates as specified under subregulation (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Holidays

6. (1) Every part-time employee shall be entitled to a paid holiday at his ordinary rate of pay on the following days in any one calendar year:

(a) on not less than seven of the gazetted public holidays, four of which shall be—

(i) the National Day;

(ii) the Birthday of the Yang di-Pertuan Agong;

(iii) the Birthday of the Ruler or the Yang di-Pertua Negeri, as the case may be, of the State in which the part-time employee wholly or mainly works under his contract of service, or the Federal Territory Day, if the part-time employee wholly or mainly works in the Federal Territory; and

(iv) the Worker's Day; and

(b) on any day declared as a public holiday under section 8 of the Holidays Act 1951 [Act 369].

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(2) If any of the public holidays referred to in paragraphs 1(a) and (b) falls on a rest day, the working day following immediately the rest day shall be a paid holiday in substitution of that public holiday.

(3) The employer shall exhibit conspicuously at the place of employment before the commencement of each calendar year a notice specifying the remaining gazetted public holidays provided for in paragraph (1)(a) in respect of which his part-time employee shall be entitled to paid holidays under the said paragraph.

(4) Notwithstanding subregulation (3), an employer and a part-time employee may agree—

(a) for any other day or several days to be substituted for one or more of the remaining three of the gazetted public holidays provided for in paragraph (1)(a); and

(b) that the employer grants the part-time employee any other day as a paid public holiday in substitution of any of the public holidays referred to in paragraph (1)(b).

(5) Notwithstanding subregulation (1), if a part-time employee is required by his employer to work at his normal hours of work on any paid holiday to which he is entitled under subregulation (1), he shall be paid not less than two days' wages in addition to the holiday pay he is entitled to for that day.

(6) If a part-time employee is required to work beyond his normal hours of work on paid holiday, he shall be paid for such extra work at the following rates:

(a) not less than twice the hourly rate of pay for each hour or part thereof which exceeds the normal hours of work of the part-time employee; and

(b) not less than three times the hourly rate of pay for each hour or part thereof which exceeds the normal hours of work of a full time employee employed in a similar capacity in the same enterprise.

(7) Any employer who fails to comply with the provisions of subregulation (3) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

(8) Any employer who fails to pay any part-time employee for any work done on a public holiday in accordance with the rates as specified under subregulations (5) and (6) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Annual leave

7. (1) A part-time employee shall be entitled to paid annual leave of—

(a) not less than six days for every twelve months of continuous service with the same employer if he has been employed by that employer for a period of less than two years;

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(b) not less than eight days for every twelve months of continuous service with the same employer if he has been employed by that employer for a period of two years or more but less than five years; and

(c) not less than eleven days for every twelve months of continuous service with the same employer if he has been employed by that employer for a period of five years or more.

(2) Where a part-time employee has not completed twelve months of continuous service with the same employer during the year in which his contract of service terminates, his entitlement to paid annual leave shall be in direct proportion to the number of completed months of service.

(3) The employer shall pay the part-time employee his ordinary rate of pay for every day of paid annual leave taken by the part-time employee.

(4) The employer shall pay the part-time employee whose contract of service has been terminated except for termination on the grounds of misconduct, for the unutilized paid annual leave.

(5) Any employer who fails to pay any part-time employee annual leave pay as provided under subregulation (3) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

(6) Any employer who fails to pay any part-time employee for any unutilized paid annual leave as provided under subregulation (4) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Sick leave

8. (1) A part-time employee shall be entitled to paid sick leave of—

(a) not less than ten days for every twelve months of continuous service with the same employer if he has been employed by that employer for a period of less than two years;

(b) not less than thirteen days for every twelve months of continuous service with the same employer if he has been employed by that employer for a period of two years or more but less than five years;
and

(c) not less than fifteen days for every twelve months of continuous service with the same employer if he has been employed by that employer for a period of five years or more.

(2) A part-time employee shall not be entitled to paid sick leave on his non-working day.

(3) A part-time employee shall be entitled to paid sick leave at his ordinary rate of pay.

(4) Any employer who fails to pay any part-time employee sick leave pay as provided under subregulation (3) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

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Rest day

9. (1) A part-time employee shall be entitled to a rest day in each week if he works five days or more with a total working hours of not less than twenty hours a week.

(2) Notwithstanding subregulation (1), if a part-time employee is required by his employer to work at his normal hours of work on a rest day to which he is entitled under his contract of service, he shall be paid not less than two day's wages at the ordinary rate of pay he is entitled to for that day.

(3) If a part-time employee is required to work beyond his normal hours

of work on rest day, he shall be paid for such extra work at the following rates:

(a) not less than one and a half times his hourly rate of pay for each hour or part thereof which does not exceed the normal hours of work of a full time employee employed in a similar capacity in the same enterprise; and

(b) not less than twice his hourly rate of pay for each hour or part thereof which exceeds the normal hours of work of a full time employee employed in a similar capacity in the same enterprise.

(4) Any employer who fails to pay any part-time employee for any work done on a rest day in accordance with the rates as specified under subregulation (2) or (3), as the case may be, commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Provision and validity of any term or condition of service which is more favourable

10. Nothing in these Regulations shall be construed as preventing an employer and a part-time employee from agreeing to any term or condition of service under which a part-time employee is employed, or shall render invalid any term or condition of service stipulated in any contract of service, which is more favourable to the part-time employee than the provisions of these Regulations.

Savings and transitional provisions

11. Any person who immediately before the coming into operation of these Regulations is a part-time employee shall, on the coming into operation of these Regulations, be deemed to be a part-time employee under these Regulations.

Made 13 August 2010

[KSM/PUU/01/05/01/02 Jld. 2; PN(PU2)192/X]

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