

An analysis: Overtime provisions in Egypt

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However, the overtime provisions as set out in the Egyptian Labor Law No. 12 of 2003 (the “Labor Law”) are regularly breached by employers both in respect of white and blue collar workers. This article explores the law and the challenges faced by employers in being in compliance with it.

General Rule

Pursuant to the Labor Law, an employee shall normally work for a maximum of eight hours a day or forty eight hours per week (based upon a 6 day working week).

In addition, the Law No. 133 of 1961 regarding Regulating the Employment of Employees in Industrial Establishments stipulates that employees working in certain industrial establishments (as may be determined by the Minister of Industry) may not work more than 42 hours a week (not including lunch hours).

Furthermore, the general rule is that an employee may not work for more than five hours continuously and then must be entitled to a lunch break of at least one hour.

Finally, there is an obligation to allow the employees engaging in hard labor to have drinks, snacks and rest periods on a regular basis to be regulated by each relevant employer.

Exceptions

The Labor Law has specified cases whereby a company may not be required to abide by the above working hours restrictions and where overtime working is permissible. Accordingly, an employee may be required in certain cases, provided the employer has informed the Labor office, to work overtime.

In addition, the Ministerial Decree No. 122 of 2003 provides that employers who have a continuous 24 hour operation (based on three shifts) can have its employees work eight hours shifts rather than be bound by the five hour restriction. In addition, employers that operate a two shift operation may also have eight continuous daily working hours provided they obtain the written approval of the employees to work these shifts.

Remuneration

In terms of overtime pay, Article 85 of the Labor Law, provides that overtime pay shall be more than the normal salary paid. The Labor Law sets out minimum rates for overtime pay and differentiates between overtime worked during the day and at night.

Daytime overtime shall be compensated with an additional percentage of 35% of the normal working hours' salary, while night-time overtime shall be compensated by 70% of the normal working hours' salary.

A company must always abide by the minimum limits set out by the Law above. In the event a company provides a higher threshold via its general internal regulations it creates a contractual right and it shall not have the discretion to subsequently decrease the overtime rate.

We would suggest that the Labor Law appears to be fair and equitable when it comes to the overtime terms applied. However, the economic landscape in Egypt is much changed and employers are often demanding more from the workforce whilst profit margins decline. The Labor Law sets out a penalty of EGP 100 where an employer violates the above provisions regulating the overtime in addition to the prospect of employee claims. However, this minimal penalty does not act as a disincentive and many employers are in breach of the above overtime provisions given the pressures that they face particularly those that deploy blue collar workings in factories and in the construction industry.

We anticipate that in the near future - considering the tremendous change of pace in the Egyptian industrial and business sectors - the working conditions in general and the overtime conditions in particular will continue to face significant challenges and likely legislative amendment.