

## **Federal Employment Act: the most important provisions on working time and rest periods**

In accordance with the Agreement on the recording of working time in the banking sector, the following information must be provided to all employees who opt out of time recording or use simplified time recording.

**Provisions on working time and rest periods must continue to be observed by employees who opt out of recording their working time.**

The Employment Act (EmpA) contains numerous exceptions and special provisions. This overview outlines the most important principles.

### **Daytime and evening work (Art. 10 EmpA)**

No authorisation is necessary for working hours between 6 a.m. and 11 p.m. This means that an employee's daily maximum working time can be spread out within a period of 17 hours (daytime work between 6 a.m. and 8 p.m., evening work between 8 p.m. and 11 p.m.). The employer can introduce evening work following consultation of the employee representative body in the company, or, in the absence of such a body, following consultation of the affected employees.

A distinction must be made between daytime and evening work when referring to the daily maximum period of 17 hours available within which to carry out work: work must start and end within a period of 14 hours and include breaks and any statutory overtime.

### **Night work (Art. 16 ff. EmpA)**

Any work outside the official daytime and evening work hours (i.e. between 11 p.m. and 6 a.m.) is night work and is subject to authorisation.

Long-term or regularly recurring night work is authorised if it is essential for technical or economical reasons. Temporary night work (i.e. fewer than 25 nights per calendar year) is authorised if there is a proven, urgent need for it.

Employees who perform temporary night work are entitled to a wage supplement of 25%. Employees performing long-term night work are entitled to time compensation of 10% of the night work.

The State Secretariat for Economic Affairs is responsible for issuing authorisation for long-term or regularly occurring night work, while the cantonal authorities are responsible for issuing authorisation for temporary night work.

### **Sunday work (Art. 18 EmpA)**

If employees are required to work in the period between 11 p.m. on Saturday and 11 p.m. on Sunday, authorisation is necessary.

Long-term Sunday work is authorised if it is essential for technical or economical reasons. There must be an urgent need for temporary Sunday work (i.e. no more than six Sundays per calendar year or up to a maximum of three months if Sunday work is "of a one-off nature"). A wage supplement of 50% is paid for temporary Sunday work.

The State Secretariat for Economic Affairs is responsible for issuing authorisation for long-term Sunday work, while the cantonal authorities are responsible for issuing authorisation for temporary Sunday work.

### **Daily maximum working time (Art. 10 EmpA)**

Daytime and evening work must amount to no more than 14 hours, including breaks and statutory overtime (Art. 10 (3) EmpA).

### **Weekly maximum working time (Art. 9 EmpA)**

The legal weekly maximum working time is 45 hours for most occupations in the financial sector.

### **Statutory overtime (Art. 12 f. EmpA)**

Any hours worked in excess of the legal maximum working time are deemed to be statutory overtime.

Statutory overtime for individual employees must not exceed two hours per day or 170 hours per calendar year (in the case of a weekly maximum working time of 45 hours).

Statutory overtime should not be confused with excess hours. Any hours worked in excess of the contractual working time are deemed to be excess hours. In accordance with the Agreement on Conditions of Employment for Bank Employees (VAB), contractual working time amounts to 42 hours. Thus, if an employee works between 42 and 45 hours per week, these are excess hours. Any time worked in excess of 45 hours is statutory overtime. For employees working full-time, a maximum of 156 excess hours and 170 statutory overtime hours are permitted. This results in maximum extra hours worked of 326 hours per year.

Statutory overtime and excess hours must be ordered by the employer. Compensatory payment or time off in lieu for excess hours is calculated based on the relevant provisions of the collective agreement or individual employment contract. According to the Employment Act, statutory overtime must be compensated with a wage supplement of 25% or time off in lieu upon exceeding an overtime balance of 60 hours per calendar year.

### **Daily rest periods (Art. 19 EmpA)**

All employees must be permitted a daily rest period of at least eleven consecutive hours.

### **One half-day off per week (Art. 21 EmpA)**

The five-day week generally applies in the financial sector. However, if the weekly working time is distributed over more than five days, employees must have one half-day off per week. In companies subject to the VAB, Saturday work may only be performed on a regular basis with the consent of the employees in question.

### **Breaks (Art. 15 EmpA)**

Employees are entitled to breaks lasting the following minimum times:

- 15 minutes in the case of daily working time of more than five-and-a-half hours
- 30 minutes in the case of daily working time of more than seven hours
- One hour in the case of daily working time of more than nine hours

### **Employees with family obligations (Art. 36 EmpA)**

When working time and rest periods are fixed, special consideration must be given to employees with family obligations. Family obligations constitute raising children up to the age of 15 and looking after disabled relatives or related parties. Such employees may only be called upon to work overtime with their agreement. At their request, a lunch break of at least 1 1/2 hours must be granted to them. They are also entitled to the necessary time (up to three days) to take care of sick children, provided that they submit a medical certificate.

### **Further information**

In accordance with Art. 8 of the Agreement on the recording of working time, the employer must designate a contact person or office. This person or office is responsible for providing additional information, in particular on working time and rest periods.

Additionally the social partners in the banking sector may be contacted for information:

- Swiss Association of Bank Employees: [www.sbpv.ch](http://www.sbpv.ch)
- Swiss Association of Commercial Employees: [www.kfmv.ch](http://www.kfmv.ch)
- Employers' Association of Banks in Switzerland: [www.arbeitgeber-banken.ch](http://www.arbeitgeber-banken.ch)