

Application for Overtime Exemption in Excess of 72 hours a month under Section 38(5) of the Employment Act

This form may take you 15 minutes to complete. You will need the following information to fill in the form:

- **Company particulars** (e.g. Business/Factory Registration No., contact person, work-related accidents reported to MOM)
- **Overtime exemption details** (e.g. Number of employees affected, period of exemption sought, union's views)
- **Affected employees** (acknowledgement form)
- **Endorsement** of Risk Register by external consultant – Applicable only to factories or workplaces covered under the Workplace Safety and Health Act (WSHA).

Note:

1. Section 38(5) of the Employment Act limits the extent of overtime work of an employee to 72 hours a month. Employers must seek the prior approval of the Commissioner for Labour for exemption from section 38(5) if they require any employee to work in excess of 72 hours a month.
2. Please note that work done on rest days or public holidays are not included in the 72 hrs limit for overtime. However if the employees are required to work beyond their normal working hours on the rest day or public holiday, the extra hours of work performed would be included in the 72 hrs limit.
3. The period of exemption sought could be for a period of up to 2 years.
4. Pregnant female employee or employees under the age of 18, are not allowed to perform overtime work exceeding 72 hours a month.
5. Application for overtime exemption will not be considered under any of the following circumstances:
 - a. The company has any outstanding Stop Work Order or Remedial Order¹ pending rectification;
 - b. The company has any work-related fatal accident or adverse employment records with the Ministry of Manpower in the last 12 months prior to the application for overtime exemption; or
 - c. The work activity seeking for overtime exemption is one of the work activities listed in ANNEX A.
6. Application for overtime exemption in factories or workplaces listed in the First Schedule of the *Workplace Safety and Health Act*² are to conduct a risk assessment on the work activities in which overtime exemption is sought. The risk assessments should demonstrate that measures are in place to protect employees and that only **LOW risk** activities are engaged during the extended working hours. The risk assessment shall be endorsed by an Approved Risk Consultant³ See ANNEX B for more details on risk assessment.
7. Applications for exemption are to be submitted 1 month before the commencement of the overtime work to mom_lrwd@mom.gov.sg or you may submit it online via the Employment Standards Online⁴ (ESOL).
8. You are also required to provide copies of the employment contract for the categories of employees that you are seeking exemption for. The employment contracts must be submitted together with the application form.

¹ Stop Work Order or Remedial Order issued under section 21 of the Workplace Safety and Health Act.

² Workplace Safety and Health Act is available at <http://statutes.agc.gov.sg/>.

³ Approved Risk Consultants are risk consultants approved under the Risk Management Assistant Fund. The list of approved risk consultants could be obtained at MOM Website http://www.mom.gov.sg/publish/momportal/en/communities/workplace_safety_and_health.html

⁴ Employment Standards Online (ESOL) is a one-stop portal for organisations and the general public to transact with the Labour Relations and Workplaces Division (LRWD). Information on the Employment Standards Online (ESOL) could be obtained at MOM Website <http://www.mom.gov.sg> (under Services and Forms>>Workplace Relations and Standards>>Employment Standards>>Employment Standards Online (ESOL) For Business Users).

**APPLICATION FOR EXEMPTION FROM SECTION 38(5)
OF THE EMPLOYMENT ACT**

<u>Company's Particulars</u>	
1)	Name of Company :
2)	Business Registration Number (ACRA No.) : Factory Registration No (if applicable) :
3)	Address :
4)	Tel No : Fax No. : Name of Contact Person : Email Address of contact person:
5)	Nature of Business : (Please describe in detail)
6)	Name of Employees' Union : (if applicable) Have your union's views been sought? : *Yes/ No
7)	Current Workforce as at <u> </u> / <u> </u> / <u> </u> : Male [<u> </u>] Female [<u> </u>] Total [<u> </u>] (Day/Mth/Yr)
8)	Does your company have any work-related fatal accident in the past 12 months? *Yes/ No
9)	Is there any outstanding Stop Work Order or Remedial Order [#] pending rectification? *Yes/ No
<u>Information on Occupations requiring Exemption</u>	
10)	Location of workplace requiring exemption (if different from main address) Address:

[#] Stop Work Order or Remedial Order issued under section 21 of the Workplace Safety and Health Act

16. Have you informed the affected employees[#] of the following:

- i) Overtime work is not compulsory, even if this application is approved.
- ii) Overtime is paid at a minimum rate of 1.5 times the hourly basic rate of pay.
- iii) The exemption, if granted, allows an employee to work up to 12 hours a day.
- iv) The exemption, if granted, does not apply to pregnant employees and those under the age of 18 years.

*Yes/ No

[#]Employees are required to sign acknowledgement form

I declare that the above information and that the Risk Register of Work Activities (if applicable) given by me are true and correct to the best of my knowledge and belief, knowing that I shall be liable to prosecution if I willfully stated anything to be false and did not believe to be true.

Name & Signature of Applicant

Designation

Date

*Delete where appropriate

EMPLOYEE'S ACKNOWLEDGEMENT FORM ¹

OVERTIME EXEMPTION SECTION 38(5) OF THE EMPLOYMENT ACT (CAP 91)

We confirm that the following had been explained to us regarding our employer's application for exemption from overtime work exceeding 72 hours a month.

1. Overtime work is not compulsory, even if this application is approved.
2. Overtime is paid at a minimum rate of 1.5 times the hourly basic rate of pay.
3. An employee shall not work more than 12 hours a day.
4. The exemption, if granted, does not apply to pregnant employees and those under the age of 18 years.
5. Appropriate protective equipment (if applicable) is provided during working hours.

S/No	Name	NRIC/ WP No	Occupation	Department	Employment Start Date	Contact No.	Signature
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

¹At least 50% or 10 (whichever is lesser) of the affected workers must acknowledged in this form

Note to employee:

- Ministry officials may contact you to verify the above.
- You may refer to our website at www.mom.gov.sg on overtime work or contact us at:
Email: mom_lrwd@mom.gov.sg
MOM Contact Centre: 6438 5122

WORK ACTIVITIES FOR WHICH OVERTIME EXEMPTION WILL NOT BE GRANTED

1) Any work where mental concentration is paramount to ensure safe operations:

- Crane operators
- Hoist and winch operators
- Dredge operators
- Excavating and loading machine
- Tank, truck and ship tanker loaders
- Industrial truck, forklift and tractor operators
- Construction equipment operators (trench excavators, road graders and mechanical powered hand tools)
- Scaffolders

2) Any work involving continuous and manual operation of machinery. Examples:

- Operators involved in manual mode operation of drilling, boring, milling, lathe, turning, cutting, punching, press, grinding, polishing, and buffing machines
- Operators involved in manual mode operation of extruding, drawing and rolling machines
- Woodworking machine operators
- Manual blasting workers
- Manual welding, soldering and brazing workers

3) Work activities in extreme thermal conditions / involving continuous changes in working temperatures. Examples:

- Iron, steel and nonferrous foundries
- Brick-firing and ceramics operations
- Glass products manufacturing plants
- Boiler rooms
- Laundries
- Smelters
- Steam tunnels
- Work in a cold storage (freezer or cool rooms)
- Meat packaging and meat storage workers

4) Work activities undertaken in a compressed air environment

5) Work activities undertaken by young persons and pregnant women

6) Work involving strenuous physical demand from manual handling of objects or machinery for prolonged hours. Examples:

Repetitive, forceful, or prolonged exertion of hands

- Manual cutting and trimming
- Manual grinding and polishing

Frequent or heavy lifting, pushing, pulling or carrying of heavy objects

- Tank, truck and ship tanker manual loaders and unloaders
- Labourers and hand freight, stock, and material movers

Prolonged awkward postures

- Equipment or automotive mechanic and service technicians
- Work involving manual small parts assembly
- Work involving installation of overhead electrical wiring

Vibration

- Operating power hand tools (like drills, chippers, jackhammers)

7) Work at elevated heights where workers are liable to fall a distance of more than 3 meters:

- Formwork works
- Roofing works

**Frequently Asked Questions by Companies under the
Workplace Safety & Health (WSH) Act on Application for Overtime Exemption**

1. What are the types of companies subject to the Workplace Safety and Health Act (WSHA)? How do I know if my company is one of them?

Ans: Workplaces or premises that were previously subject to the Factories Act, i.e. factories, shipyards, construction worksites etc. will be subject to the WSHA. To find out if your company is subject to the Act, you may refer to the First Schedule of the Workplace Safety and Health Act 2006.

2. What is Risk Assessment? Why is it necessary to conduct a risk assessment on work activities in which overtime exemption is sought?

Ans: Risk assessment consists of:

- i. Identifying hazards associated with a work activity,
- ii. Examining the severity or consequences from these hazards,
- iii. Assessing the likelihood or probability of occurrence, and
- iv. Determining what measures should be taken to eliminate or control the hazards and so as to reduce the risk.

Working long hours is associated with fatigue, and invariably gives rise to reduced mental function and vigilance, as well as impaired coordination. As a result, there will be an increased likelihood of accidents and ill-health.

Companies applying for overtime exemption are therefore expected to take steps to ensure that the risks of accidents or harm to the health of the employees are kept as low as possible.

Companies should demonstrate that they have taken adequate measures to safeguard the safety and health of their employees if they perform work beyond normal working hours. Risk assessment for work activities during the extended working hours should take into consideration the additional risks to health and the effects of fatigue.

3. Must the risk assessment be carried out by external consultants?

Ans: Risk assessment could be done in-house. However companies that do not have in-house capability could engage the services of an external risk consultant. However, for the purpose of applying for overtime exemption, the endorsement by an external approved risk consultant is required to ensure that impartiality and accountability is maintained.

4. Who are the approved risk consultants?

Ans: Approved Risk Consultants are risk consultants approved under the Risk Management Assistance Fund (RMAF). The list of consultants can be obtained from the MOM Website (<http://www.mom.gov.sg>).

5. Must all work activities to be carried out be certified as 'LOW RISK' for the purpose of overtime exemption?

Ans: Yes, all work activities to be carried out during overtime exemption period must be of low risk. In addition, the risk assessment of the work activities must be endorsed by an Approved Risk Consultant.