



Ministry of Labour & Social Security

flexible Work Arrangements FAQ

Frequently
Asked
Questions





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Background

In 1996, a Labour Market Reform Committee, chaired by Professor George Eaton, recommended the implementation of Flexible Work Arrangements as one of the strategies for reform of the Jamaican labour market. It was recognized that flexibility in the labour market is crucial to the country's ability to compete and survive in the global economy.

A consultative approach was taken by the Government through the Ministry of Labour and Social Security in determining whether or not to implement Flexible Work Arrangements (Flexi-Work).

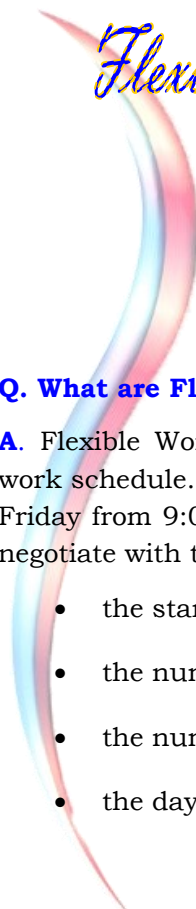
In July 2000, a Flexi-Work Committee comprised of representatives of the tripartite: the Jamaica Employers' Federation, Jamaica Confederation of Trade Unions and the Ministry of Labour and Social Security was appointed. It also included representatives of the Jamaica Manufacturers' Association, the Jamaica Council of Churches, the University and Allied Workers' Union and Government Ministries.

The work of this Committee culminated in the formulation of a Green Paper on Flexible Work Arrangements, which was tabled in Parliament and circulated throughout the island to facilitate discussion. The Green Paper outlined the advantages and the varying types of Flexi-Work and identified proposed strategies for its implementation.

In an effort to ensure that all stakeholders were given the opportunity to be heard, Parliament decided to refer the matter to a Joint Select Committee (JSC) which invited further discussion from stakeholder groups and interested citizens. The Committee considered submissions from several interested parties including church groups, employers and NGOs and reviewed the opinions of organizations such as the Jamaica Confederation of Trade Unions, the Private Sector Organization of Jamaica, the Jamaica Hotel and Tourist Association, the Jamaica Manufacturers' Association and the Association of Women's Organization of Jamaica.

Having heard all the parties, the Joint Select Committee made several recommendations which were approved by both Houses of Parliament and thereafter a Ministry Paper on Flexi-Work was tabled in Parliament in September 2013.

The Employment (Flexible Work Arrangements) (Miscellaneous) Provisions Bill 2014 was tabled and debated by both Houses of Parliament between September and November 2014 when it was passed. The Governor-General's assent has been affixed and the Act came into effect on November 25, 2014. This process resulted in the establishment of a legal framework for the implementation of Flexible Work Arrangements.



Flexible Work Arrangements: Frequently Asked Questions

Q. What are Flexible Work Arrangements (Flexi-Work)?

A. Flexible Work Arrangements are characterized by variations in the work schedule. This means instead of working the traditional Monday to Friday from 9:00 a.m. to 5:00 p.m. for 8 hours a day, the worker could negotiate with the employer as it relates to:

- the start and end time of the workday
- the number of hours worked each day
- the number of days worked each week
- the days of the week on which he/she works

Q. What are the types of Flexi-Work?

A. Flexible Work Arrangements can take many forms such as:

- **Part-Time Work With Benefits**-This offers the worker the flexibility of working for part-time hours while still being able to access benefits such as group life insurance, pro-rated vacation leave and sick leave.
- **Telecommuting**- This provides the worker with the opportunity to work from a site other than the central work site. For example, the worker could work from his/her home.
- **Flexi-Time**- The worker and employer can negotiate the time for commencement and end of work. However, there is a normally a 'core time' when all workers should be at work. This 'core-time' coin-

cides with the time when the workplace does the most business and is usually around 10:00 a.m.

- **Compressed Work Week**-The employee can negotiate with the employer to undertake the traditional forty hour work week over a shorter span of days. For example, the worker can negotiate to complete his/her 40 hours over a span of 4 days instead of the traditional 5 work days. This is referred to as the 4/10 schedule as the worker would work for 10 hours for 4 days. The worker could also complete his/her work over 3 ½ days.

The employer will have to determine the type of Flexi-Work which best suits his/her organization having regard to factors such as the nature of the organization.

Q. What are the benefits of Flexi-Work?

A. The benefits of Flexi-Work include:

Employee

- Increased employment opportunities.
- More time for family and personal interests in some instances
- Less traffic congestion during the normal peak hours as persons may start and end work at different times.

Employer

- Increased productivity
- Reduction in labour costs as in some instances weekends would be treated as normal working days payable at normal work rates.
- Greater availability of service to customers due to varied opening hours and more business days.

Q. Is Flexi-Work new to Jamaica?

A. **No.** This type of Work Arrangements already exists in several sectors in Jamaica such as the night and shift work in the Health, Transportation, Security, Communications, Tourism, Manufacturing and Mining

Sectors. However, several laws had to be amended to facilitate its whole-sale implementation.

Q. Which laws were amended?

A. Some of the Acts/Order which were amended are:

- Holidays With Pay Order
- Labour Relations and Industrial Disputes Act
- Minimum Wage (Industrial Security Guards) Order and the National Minimum Wage Order
- Shops and Offices Act and Regulations
- Towns and Communities Act

Q. Why was it necessary to amend these laws?

A. These laws contained provisions which were not in keeping with the principle of Flexi-Work. They restricted the opening and closing hours of establishments, limited the hours and days that can be worked, restricted the operation of some businesses on Sundays, established work weeks which exceeded the recommended 40 hours and restricted women from working at night.

Q. When were the laws amended?

A. The amendments to the various laws came into effect on November 25, 2014.

Q. I own a business, does the law require/compel me to implement Flexi-Work?

A. No. Restrictions have been removed to facilitate businesses that will benefit from implementing Flexi-Work. Flexi-work will not benefit every organization and should only be implemented by those which stand to reap benefits.

Q. Will I still be entitled to a day of rest?

A. Yes. Workers and employers are being given more scope to negotiate the day(s) on which the rest day(s) can fall. This should be mutually agreed.

Q. As a minimum wage earner, am I still entitled to overtime for working in excess of 8 hours in a day (time and a half rate)?

A. No. You can now work up to 12 hours per day at a single time rates. Overtime will now be earned after you have completed 40 hours in a week (i.e. time and a half rate).

Q As a minimum wage earner, am I still entitled to overtime payments for work carried out on a rest day or public holiday?

A. Yes. Minimum wage earners are still entitled to double-time rates for working on a public holiday or rest day. However, Sundays will not be automatically considered as a 'premium day' for the purpose of calculating overtime payments.

Q. Are there any changes to my vacation leave entitlements under the Holidays With Pay Order?

A. No. A worker who works on not less than 110 days in any qualifying year is still entitled to vacation leave. However, Sundays can now be counted in vacation leave entitlements, if Sunday is an agreed normal working day for the worker. For example, if you apply for ten days vacation leave and Sunday is one of your normal working days, Sunday will count as one of the ten days you are on leave.

Q. Are there any changes to my sick leave entitlements under the Holidays With Pay Order?

A. No.

Q. I operate a shop. Are there still restrictions on when the shop should open and close?

A. No. Shops may now be open at any time on any day without restrictions.

Q. Can my workers now work in the shop for 24 hours?

A. No. The **Shops Regulation** now states that no person is to be employed in or about the business of any shop for more than 12 hours in a day.

Q. Can I now open my business establishment on a Sunday?

A. Yes. Based on amendments to the **Towns and Communities Act**, businesses can now be open on Sundays without restrictions. However restrictions in respect of the opening of businesses on public holidays, Good Friday and Christmas Day remain in effect.

Q. Are there still restrictions on women working at night?

A. No. The **Women (Employment of) Act** - which restricted women from working at night - has been repealed.

Q. As an employer I wish to implement Flexi-Work. Can I force my employees to change their days and hours of work and other terms of the employment contract?

A. No. The terms of the employment contract, whether in writing or oral can only be changed by agreement and negotiation between the parties. You can be sued for breach of contract if you change the terms of the employment contract without agreement.

Q. Can I change my hours and days of work or the other terms and conditions of employment without the agreement of my employer?

A. No. You may be sued or dismissed for breach of contract if you change the terms of the employment contract without agreement.

Q. Can I seek redress at the Ministry of Labour and Social Security (MLSS) and Industrial Disputes Tribunal (IDT) if I am denied the right to worship by my employer?

A. No. This is really a Constitutional matter of religious discrimination to be pursued in a Court of Law, not the MLSS or IDT.

Q. What can I do if my employer dismisses, suspends, demotes, harasses, intimidates or victimizes me, transfers me against my will, refuses to promote me or appoint me or provides me with an adverse reference because I exercised or sought to exercise my right to worship?

A. If you are a member of a trade union the matter should be reported to the union. If you are not unionized, the matter may be reported to the Industrial Relations Department of the Ministry of Labour and Social Security as an industrial dispute. However, the matter should only be reported to the Ministry if all your attempts to settle the matter with the employer have failed. The Ministry will use conciliation to assist both the employee and the employer to settle the dispute.



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