

## Hours Worked and Mandatory Overtime

How an employee is paid depends on if the employee is nonexempt or exempt from minimum wage and/or overtime pay. An employer must pay an employee at least the minimum wage (currently \$7.25 an hour under both North Carolina and federal labor laws) or pay the employee their promised rate of pay, whichever is greater, and pay time and one-half overtime pay based on the employee's regular rate of pay for all hours worked in excess of 40 in a work week unless the employee is exempt for some reason. The minimum wage and overtime pay are based on the hours worked each work week and not by the number of hours worked each day or the number of days worked regardless of the length of the pay period. Each work week stands on its own.

There are no wage and hour laws that limit the amount of hours that a person 18 years of age or older can work either by the day, week, or number of days in a row, or that require breaks for employees 16 years of age or older. An employer is free to adjust the hours of its employees regardless of what the employees are scheduled to work. For example: To avoid having to pay time and one-half overtime pay for hours worked in excess of 40 in a work week that is Sunday through Saturday, an employer could adjust the hours of an employee who has already worked 34 hours by the end of a Thursday by requiring that the employee work only six hours on Friday and not work on Saturday at all regardless if the schedule had called for this employee to work eight hours on Friday and Saturday. An employer can make the scheduling or rescheduling of its employees hours worked as a condition of employment.

And the rules are the same regardless if the employer is a large corporation or a small mom-and-pop outfit. Neither the *North Carolina Wage and Hour Act (WHA)* nor the federal *Fair Labor Standards Act (FLSA)* limit the amount of hours that an employee 18 years of age or older can be required to work either by the day, week, or number of days in a row. There are no limitations on how many hours an adult employee can be required to work regardless if they are a salaried-exempt employee or a non-exempt employee. The employer is only required to pay time and one-half overtime pay based on an employee's regular rate of pay for all hours worked in excess of 40 in a work week to its non-exempt employees, but there is no limit to how many hours the adult employee may be required to work.

The decision to work employees in 8-hour shifts, 12-hour shifts, 16-hour shifts, etc. is entirely up to the employer. The decision to call an employee back in to work on a scheduled day off is entirely up to the employer. An employer can make working on a scheduled day off or working a full shift as a condition of employment regardless of an employee's start-time or end-time. An employer can make the working of overtime hours a condition of employment. Since an employer can make the working of overtime mandatory, the employer can terminate an employee if the employee refuses to work overtime regardless of how many hours the employee has already worked that day or work week.

**For more information visit the North Carolina Department of Revenue website:**  
<http://www.dor.state.nc.us/>.