ARCELORMITTAL SOU	Document Number:	HR001			
0	REVISION No.:	0		Page 1 of 15	
	DATE:	09/06/2009		Amendment	00
ArcelorMittal	AUTHOR:	HUMAN RESOURCES DEPARTMENT			
Section/Regulation		Requirement			

## **BASIC CONDITIONS OF EMPLOYMENT ACT NO 75 OF 1997**

### CONTENTS CLICK ON PAGE NUMBER TO GO TO SECTION OR REGULATION AND USE WEB TOOLBAR TO NAVIGATE

Section 7	1
Section 17(3)	2
Section 26(1) & (2)	2
Section 31	2
Section 76	3
Section 78	3
Section 90(3)	4
Regulation 3	4
Code of Practice on the protection of employees during pregnancy and after birth of a child 4	4
Code of Practice on the protection of employees during pregnancy and after birth of a child 5	5
Code of Practice on the protection of employees during pregnancy and after birth of a child 6	6
Code of Practice on the protection of employees during pregnancy and after birth of a child 7	8
Code of practice for the arrangement of working time 3	9
Code of practice for the arrangement of working time 4	10
Code of practice for the arrangement of working time 5	11
Code of practice for the arrangement of working time 6	11
Code of practice for the arrangement of working time 7	12
Code of practice for the arrangement of working time 8	12
Code of practice for the arrangement of working time 9	13
Code of practice for the arrangement of working time 10	13
Code of practice for the arrangement of working time 11	14
Code of practice for the arrangement of working time Glossary	14

Section 7	Regulation of working time
	Every employer must regulate the working time of each employee
	(a) in accordance with the provisions of any Act governing occupational health and safety;
	(b) with due regard to the health and safety of employees;

ARCELORMITTAL SOUTH AFRICA LTD: LEGAL COMPLIANCE REGISTER			Document Number:	HR001		
	_	REVISION No.:	0		Page 2 of 15	
		DATE:	09/06/2009		Amendment	00
ArcelorMitte	al	AUTHOR:	HUMAN RESOURCES DEPARTMENT			•
Section/Regulation			Requirement			

Section/Regulation	Requirement					
	(c) with due regard to the Code of Good Practice on the Legislation of working time issued under Section 87(1) a [not yet published]; and (d) with due regard to the family responsibilities of employees.					
Section 17(3)	Night work					
	An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must					
	(a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee understands					
	(i) of any health and safety hazards associated with the work that the employee is required to perform; and					
	(ii) of the employee's right to undergo a medical examination, in terms of paragraph b.					
Section 26(1) & (2)	Protection of employees before and after birth of a child					
	No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of her child.					
	During an employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if					
	(a) the employee is required to perform night work, or her work poses a danger to her health or safety or that of her child; and					
	(b) it is practicable for the employer to do so.					
Section 31	Keeping of records					
	(1) Every employer must keep a record containing at least the following information:					
	(a) the employee's name and occupation;					
	(b) the time worked by each employee;					

ARCELORMITTAL SO	UTH	AFRICA L	TD: LEGAL COMPLI	IANCE REGISTER	Document Number:	HR001	
6			REVISION No.:	0		Page 3 of 15	
DATE:				09/06/2009		Amendment	00
ArcelorMitt	al		AUTHOR:	HUMAN RESOURCES DEPARTM	MENT	•	
Section/Regulation				Requirement			
			emuneration paid to eac				
		,	, ,	oyee under 18 years of age; and			
		(e) any	other prescribed informa	ation.			
	(2)	A record in record.	terms of subsection 31	(1) must be kept by the employer for a per	riod of three years from the date of th	e last entry in the	
	(3)	No person may make a false entry in a record maintained in terms of subsection 31.(1).					
	(4)		er who keeps a record in d by any other employme	n terms of this section is not required to ke ent law.	eep any other record of time worked a	and remuneration	paid
Section 76				Proof of compliance	<u>e</u>		
	(1)	In any prod	ceedings concerning a c	ontravention of this Act or any sectoral det	termination it is for an employer		
		(a) to prove that a record maintained by or for that employer is valid and accurate;					
			has failed to keep any re is Act.	ecord required by this Act that is relevant t	to those proceedings, to prove compl	liance with any pro	ovisior
Section 78	Rights of employees						
	(1)	Every emp	loyee has the right to				
			e a complaint to a trade sal by an employee to co	union representative or trade union officia omply with this Act;	al or a labour inspector concerning ar	ny alleged failure c	or
		(b) disci	uss his or her conditions	of employment with his or her fellow empl	loyees, his or her employer or any ot	her person;	
		(b) disci				•	

ARCELORMITTAL SO	UTH .	AFRICA L	TD: LEGAL COMP	LIANCE REGISTER	Document Number:	HR001	
9			REVISION No.:	0	•	Page 4 of 15	
			DATE:	09/06/2009		Amendment	00
ArcelorMitte	aı		AUTHOR:	HUMAN RESOURCES DE	EPARTMENT		
Section/Regulation				Require	ement		
		(e) inspection (f) particities (g) requerements employee	ct any record kept in a ipate in proceedings in est a trade union repre- byment of that employ	terms of this Act that relates to the edin terms of this Act; esentative or a labour inspector to invee.	nspect any record kept in terms of this Act an	d that relates to t	
Section 90(3)	<ul> <li>(2) Every trade union representative has the right, at the request of an employee, to inspect any record kept in terms of this Act that relates to the employment of that employee.</li> <li>The record of any medical examination performed in terms of this Act must be kept confidential and may be made available only</li> <li>(a) in accordance with the ethics of medical practice;</li> </ul>						
	, ,	·	y law or court order;	or nsented to the release of that inform	nation.		
Regulation 3				Keeping of	<u>Records</u>		
	(1) The record that an employer is required to keep in terms of section 31 must comprise						
		(a) a wag	jes register in the for	m of BCEA 2 or some other record t	that contains the information set out in that fo	rm; and	
		(b) an atte	endance register in the	ne form of BCEA 3 or some other re	ecord that contains the information set out in t	hat form.	
Code of Practice on the protection of employees during pregnancy and after birth of a child	4.1				IREMENTS  al integrity, which includes the right to male ealth services, including reproductive health or services.		
	4.2	No perso	on may be discrimina	ted against or dismissed on accoun	t of pregnancy.		

ARCELORMITTAL SO	UTH AFRICA	A LTD: LEGAL COMP	LIANCE REGISTER	Document Number:	HR001	
		REVISION No.:	0	·	Page 5 of 15	
		DATE:	09/06/2009		Amendment	00
ArcelorMitt	al	AUTHOR:	HUMAN RESOURCES DEPART	TMENT	•	•
Section/Regulation			Requirement			
	include Safer 4.3.1 4.3.2 4.3.3	des risks to the reproduct ty Act 85 of 1993 and the employers must conduct and safety of employers employers must impler employers must suppose to employers taken to eling elected worker health of hazards;	rovide and maintain a work environment to ctive health of employees. These duties a Mine Health and Safety Act 27 of 1996. It was a risk assessment, which involves identies, and recording the results of the risk assement appropriate measures to eliminate or only employees with information about anominate or minimise them;  and safety representatives and committee by to take reasonable steps to protect their of the safety to take reasonable steps to protect their of the safety representatives.	are established in terms of both the Gey aspects of these Acts are - tifying hazards, assessing the risk that sessment.  control hazards identified in the risk as detrain them in the risks to their heads are entitled to participate in the risk	Occupational Head the state of the seessment; alth and safety assessment and	alth and e health
Code of Practice on the protection of employees during pregnancy and after birth of a child	feedi empl fetus  5.2 Empl 5.2.1 5.2.2  5.3 Where feedi feedi feedi	ion 26(1) of the BCEA ping to perform work that oy women of childbearing or child.  Ioyers should identify, recomponent protective measures and re appropriate, employering employees could be to	prohibits employers from requiring or perit is hazardous to the health of the employing age to assess and control risks to the historia and regularly review - mant or breast-feeding employees within the and adjustments to working arrangements for its should also maintain a list of employment and separate and the industry and th	mitting a pregnant employee or an expee or the health of her child. This health of pregnant or breast-feeding enter workplace; for pregnant or breast-feeding employement positions not involving risk to whether the second secon	requires employemployees and the	ers wh at of th

ARCELORMITTAL SO	OUTH A	FRICA LTD: LEGAL C	OMPLIANCE REGIST	ER	Document Number:	HR001	
		REVISION N	lo.: 0			Page 6 of 15	
		DATE:	09/06/2009			Amendment	00
ArcelorMit	tal	AUTHOR:	HUMAN RI	ESOURCES DEPARTME	ENT		
Section/Regulation				Requirement			
		the employer is able to it	dentify and assess risks	and take appropriate preve	entive measures.		
	5.6	The employer should ke	ep a record of every noti	fication of pregnancy.			
	5.7	When an employee not should include -	fies an employer that s	he is pregnant her situation	on in the workplace should be eva	aluated. The ev	aluation
		5.7.2 the employee's jo	b;	al condition by a qualified mace exposures that may affor	•		
	5.8	If the evaluation reveals	that there is a risk to the	health or safety of the pre	gnant employee or the fetus, the er	mployer must -	
			e employee and her re	oresentative, if any, determ employee's working conditi	nine what steps should be taken to ons.	prevent the expo	osure o
	5.9	The employee should be	given appropriate traini	ng in the hazards and the p	preventive measures taken.		
	5.10	appropriate in certain ci	cumstances to consult	an occupational health pra	station or working conditions should actitioner. If appropriate adjustment h section 26(2) of the BCEA.		
	5.11				nder regular review. The possibility also different risks to consider for		
	5.12.	Arrangements should be required during pregnan		nd breast-feeding employed	es to be able to attend antenatal	and postnatal cl	inics as
	5.13			no are breast-feeding to ha months of the child's life.	ve breaks of 30 minutes twice per	day for breast-fee	eding or
	5.14			t a workplace, appropriate ondition of the employee or	records should be kept of pregnan	ncies and the out	come of
Code of Practice on the			THE IDENTIFIC	CATION AND ASSESSME	NT OF HAZARDS		

ARCELORMITTAL SOUTH AFRICA LTD: LEGAL COMPLIANCE REGISTER			Document Number:	HR001		
2	_	REVISION No.:	0		Page 7 of 15	
A		DATE:	09/06/2009		Amendment	00
ArcelorMitte	al	AUTHOR:	HUMAN RESOURCES DEPARTMENT			
Section/Regulation			Requirement			

protection of employees
during pregnancy and
after birth of a child

- 6.1 Physical hazards The control of physical hazards in the workplace includes the recognition, evaluation and control of -
  - 6.1.1 exposure to noise, vibration, radiation, electric and electromagnetic fields and radioactive substances;
  - 6.1.2 work in extreme environments;
  - 6.1.3 control of the thermal environment (heating and air conditioning).

Schedule One describes the extent to which certain of these physical agents may constitute a hazard to the health and safety of pregnant and breast-feeding employees and suggests methods to prevent or control these hazards.

### 6.2 Ergonomic hazards

The application of ergonomics involves ensuring that work systems are designed to meet the employee's needs for health, safety and comfort. A range of ergonomic risk factors may pose hazards to the health and safety of pregnant and breast-feeding employees and should be identified and assessed as part of the risk assessment programme. These include -

- 6.2.1 heavy physical work;
- 6.2.2 static work posture;
- 6.2.3 frequent bending and twisting;
- 6.2.4 lifting heavy objects and movements requiring force;
- 6.2.5 repetitive work;
- 6.2.6 awkward postures;
- 6.2.7 no rest;
- 6.2.8 standing for long periods;
- 6.2.9 sitting for long periods.

Schedule Two describes the extent to which some of these factors may constitute a hazard to the health and safety of pregnant and breast-feeding employees and suggests methods to prevent or control these hazards.

#### 6.3 Chemical hazards

Contact with harmful chemical substances may cause infertility and fetal abnormalities. Some chemicals can be passed to the baby during breastfeeding and could possibly impair the health and the development of the child.

The Hazardous Chemical Substances Regulations, 1995, issued under OHSA apply to all employers who carry out activities, which may expose people to hazardous chemical substances. These employers must assess the potential exposure of employees to any

ARCELORMITTAL SO	UTH AFRICA	LTD: LEGAL COMPL	IANCE REGISTER	Document Number:	HR001	
-	_	REVISION No.:	0		Page 8 of 15	
		DATE:	09/06/2009		Amendment	00
ArcelorMitt	aı	AUTHOR:	HUMAN RESOURCES DEPARTMENT			
Section/Regulation			Requirement			
	hazard The H which male of Regula supplie inform relevan With th women or brea swallo accord Chemi child a  6.4 Biolog Many I agents includi be exp worker Univer staff ir safety, Some	lous chemical substances azardous Chemical Substances they are or may be experted from the general employees.  Action 7(1) of the Gener	stances Regulations require employers to inform and osed. This must include information on any potential Administrative Regulations, 1996, under OHSA call substances used at work to supply a Material e hazards. Every employer who uses a hazardous it available on request to affected persons.  Regulations, there are no regulations, which set may be regulations, there are no regulations, which set may be regulated as a substances, care should be taken to minimist the skin. Where this cannot be achieved, employed the BCEA.  known or suspected to constitute a hazard to pregulations.	d train employees about, ial detrimental effect on the arequires manufacturers. Safety Data Sheet (MSI chemical substance must eximum exposure levels of conal health standards for the ise exposure to chemical exployees should be transformed by the mother is infected during that the tween mother and or dealing with animal profit young children, such a can (chicken pox).  The standards of personal profit in the profit of the	and in any substance reproductive and in any substance reproductive and importers, selled and importers, selled and importers applicated to a selled and importers and to the ang pregnancy. But he be and to the ang pregnancy. But he be a selled and the angle angle and the angle angle and the angle angle and the angle angl	tance to ability of ers and include n of the tions for oregnant inhaled, work in fetus or iological workers, likely to edu-care lance of alth and
Code of Practice on the			ASPECTS OF PREGNANCY THAT MAY AFFEC	T WORK		

ARCELORMITTAL SOUTH AFRICA LTD: LEGAL COMPLIANCE REGISTER			Document Number:	HR001		
ArcelorMittal ArcelorMittal		REVISION No.:	0		Page 9 of 15	
		DATE:	09/06/2009		Amendment	00
		AUTHOR:	HUMAN RESOURCES DEPARTMENT			
Section/Regulation			Requirement			

Section/Regulation	Requirement					
protection of employees during pregnancy and after birth of a child	Employers and employees should be aware of the following common aspects of pregnancy that may affect work:					
and share a shina	7.1 As a result of morning sickness employees may be unable to perform early shift work. Exposure to nauseating smells may also aggravate morning sickness.					
	7.2 Backache and varicose veins may result from work involving prolonged standing or sitting. Backache may also result from work involving manual handling.					
	7.3 More frequent visits to the toilet will require reasonable access to toilet facilities and consideration of the employee's position if leaving the work she performs unattended poses difficulties.					
	7.4 The employee's increasing size and discomfort may require changes of protective clothing, changes to work in confined spaces and changes to her work where manual handling is involved. Her increasing size may also impair dexterity, agility, co-ordination, speed of movement and reach.					
	7.5 The employee's balance may be affected making work on slippery or wet surfaces difficult.					
	7.6 Tiredness associated with pregnancy may affect the employee's ability to work overtime and to perform evening work. The employer may have to consider granting rest periods.					
Code of practice for the arrangement of working	RELATIONSHIP TO HEALTH AND SAFETY LAWS					
time	3.1 The regulation of working time is closely connected to the protection and promotion of the health and safety of employees and, in some cases, members of the public.					
	Employers may be required to take working-time schedules into account in complying with their general duties to provide and maintain a working environment that is safe and without risk to the health of employees in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), (OHSA) 85 of 1993 and the Mine Health and Safety Act, 1996 (Act No. 19 of 1996), (MHSA).					
	3.3 Key aspects of these Acts are the following:					
	3.3.1 Employers must conduct a risk assessment. This requires that they identify hazards and assess the risk that they pose to the health and safety of employees. The results of the risk assessment must be recorded.					
	3.3.2 Employers must implement appropriate measures to eliminate or control hazards identified in the risk assessment.					

ARCELORMITTAL SO	UTH A	FRICA LTD: LEGAL COMPLI	IANCE REGISTER	Document Number:	HR001
<u></u>		REVISION No.:	0		Page 10 of 15
ArcelorMittal		DATE:	09/06/2009		Amendment 00
		AUTHOR:	HUMAN RESOURCES DEPART	MENT	
Section/Regulation			Requirement		
		3.3.3 Employers must train an control such risks.	d supply information to employees about	the risks to their health and safety an	d the measures taken
		3.3.4 Elected worker health ar of hazards.	nd safety representatives and committees	s are entitled to participate in the risk	assessment and contr
		3.3.5 Employees have a duty	to take reasonable steps to protect their c	wn health and safety and that of othe	r employees.
	3.4		yees to perform regular night work must the work that they would perform. This p		
Code of practice for the arrangement of working			DESIGN AND EVALUATION OF S	HIFT SYSTEMS	
time	4.1	The design of shift rosters must be sensitive to the impact of these rosters on employees and their families. This information can obtained during consultations, negotiations or by circulating individual questionnaires to employees.			
	4.2	The information that an employe	er may require on the effect of shift roster	s includes -	
			of employees for different shift systems ting time, starting and finishing times of sh		rate of rotation, length
		4.2.2 the employee's views of	the advantages and disadvantages of the	e existing or proposed shift system;	
		4.2.3 aspects of the employee	s's work that could affect the determination	n of a suitable shift length;	
		4.2.4 how an existing or propo	osed shift schedule affects or might affect	the health and safety of employees;	
		4.2.5 means, costs and availa commuting;	ability of transport to and from the place	of residence and the personal securi	ty of the employee whi
		4.2.6 the childcare needs of th	ne employees.		
	4.3	The information that will be re evaluating or redesigning a shif	equired will depend on whether an emplit system.	oyer is introducing a shift system for	or the first time or is r

ARCELORMITTAL SOUTH AFRICA LTD: LEGAL COMPLIANCE REGISTER			Document Number:	HR001		
Arcelor/Mittal		REVISION No.:	0		Page 11 of 15	
		DATE:	09/06/2009		Amendment	00
		AUTHOR:	HUMAN RESOURCES DEPARTMENT			
Section/Regulation			Requirement			

Section/Regulation	Requirement
Code of practice for the arrangement of working	ARRANGEMENT OF SHIFTS
time	The following recommendations apply to the arrangement of shift work:
	5.1 Overtime should be avoided, especially in occupations involving special hazards or heavy physical or mental strain.
	5.2 The changeover from one shift to another during the working day should, where appropriate, include a brief period of overlap of the two crews in order to pass on any information that is needed by the subsequent crew.
	5.3 if appropriate and if it is possible within legal requirements, workers whose skills are interchangeable should be allowed to exchange a shift with another worker.
	5.4 The shift schedule should be displayed or distributed for easy access by all workers, and should be presented in a readily understandable form.
	5.5 Workers should receive reasonable notice in advance of scheduled hours of work and of any foreseeable changes to the schedule.
	5.6 Arrangements should be considered to accommodate the special needs of workers such as pregnant and breast-feeding workers, workers with family responsibilities, older workers, disabled workers or workers with health problems, and also workers' personal preferences for the scheduling of their own free time.
Code of practice for the	DESIGN OF SHIFT ROSTERS
arrangement of working time	The following factors should be taken into account in the design of rosters for semi-continuous and continuous shift work:
	6.1 The frequency of night work, weekend work and work on public holidays should be limited as much as possible for each worker.
	6.2 The frequency of shift rotation should take account of the difficulties workers may have in adapting to night work.
	6.3 It is preferable that shifts be rotated in a forward direction (morning to afternoon to night), bearing in mind workers' preferences, local conditions and difficulties in scheduling a long period of rest after spells of night shifts.
	6.4 Night shifts should be no longer than morning and afternoon shifts. Where long night shifts are used they should be carefully reviewed to find ways to avoid excessive fatigue. Successive long night shifts should be avoided to the extent practicable.
	6.5 Rest periods for shift workers should be scheduled to fall on weekendsa certain minimum number of times during a given period.

ARCELORMITTAL SOUTH AFRICA LTD: LEGAL COMPLIANCE REGISTER			Document Number:	HR001	
0	REVISION No.:	0		Page 12 of 15	
	DATE:	09/06/2009		Amendment	00
ArcelorMittal ArcelorMittal	AUTHOR:	HUMAN RESOURCES DEPARTMENT			
Section/Regulation		Requirement			

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Code of practice for the	PERFORMANCE OF SAFETY-CRITICAL TASKS
arrangement of working time	7.1 Employers should take particular care in the timing of safety-critical tasks in shift cycles and during individual shifts.
	7.2 These should, to the greatest extent possible, not be undertaken at a time when the employees involved may be fatigued or have low levels of alertness.
	7.3 This is of particular importance to employers, such as operators of major hazard installations whose activities have a direct impact upon the public, and operators of services such as mass transportation or goods transportation.
Code of practice for the	HEALTH ASSESSMENT AND COUNSELLING
arrangement of working time	8.1 In terms of section 17(3)(b) of BCEA an employer, if requested by an employee who is performing regular night work, must make arrangements for the employee to undergo a medical examination. An employee is entitled to have such an examination at the time of commencing regular night work and thereafter at regular intervals while he or she continues to work regularly at night.
	8.2 The examination should be performed by a medical practitioner or by a health professional who could refer employees to a medical practitioner in appropriate cases. This could include qualified staff employed in a workplace clinic. The cost of the examination is for the account of the employer although arrangements could be made for the cost to be covered through medical aid.
	8.3 The timing of these examinations should be determined by individual or collective agreement in the light of the employee's health status, the nature of the work the employee performs and the employee's working hours.
	8.4 The examination should cover -
	8.4.1 any difficulties the employee may be having in adapting to night-work routines;
	8.4.2 any health problems that the employee is manifesting;
	8.4.3 any psychological, emotional and social stresses experienced by the employee, strategies that may help the employee cope with night work and educational input on the risks of shift work;
	8.4.4 insomnia and symptoms of sleep deprivation such as irritability and chronic fatigue;
	8.4.5 use of medication, the effectiveness of which depends upon circadian (daily body) rhythms;

ARCELORMITTAL SO	UTH AFRI	ICA LTD: LEGAL COMPL	LIANCE REGISTER	Document Number:	HR001	
	_	REVISION No.:	0		Page 13 of 15	5
		DATE:	09/06/2009		Amendment	00
ArcelorMitt	al	AUTHOR:	HUMAN RESOURCES DEPART	MENT		
Section/Regulation			Requirement			
	8.4	4.6 diet and use of caffeina	ted drinks, alcohol, sleeping pills, and ciga	rettes.		
	the		ay be appropriate to advise certain individ ion is fundamentally affected by circadi epileptics.			
		ne examination should also ind as coping strategies that n	nclude educational input on the health risk nay assist the employee.	ks that may be associated with the er	mployee's work s	chedul
Code of practice for the arrangement of working			9. WORKING ENVIRONI	<u>MENT</u>		
time	Employers should regularly assess whether the work environment, in particular the lighting and heating, are adequate for the health, safety and physical comfort of employees, particularly night workers.					
Code of practice for the arrangement of working	MANAGEMENT SERVICES					
time	10.1 Employers should provide appropriate management services to employees working outside of ordinary hours. Depending on the nature of the business, some aspects of management services should be available at all times to nightshift employees.					
	10.2 Services that should be available at night include -					
		0.2.1 first aid services;				
	10		vision; ervices, in particular counselling on nutritio n case of accidents, including transportatio			
	10.3 En	10.3 Employers who engage employees on night work should ensure that -				
	10 10	0.3.2 employees are able to 0.3.3 there are adequate earth.	curity for employees at the workplace; o obtain safe, affordable transportation bet ating facilities; est rooms and change-rooms.	ween their places of residence and th	eir workplace;	
	wit	th services such as the wag	I be sufficient, so that employees working es or personnel department. This could be sters that permit employees working at nigh	be achieved by making these services		

ARCELORMITTAL SO	UTH AF	RICA LTD: LEGAL COMPL	IANCE REGISTER	Document Number:	HR001		
2		REVISION No.:	0		Page 14 of 15		
		DATE:	09/06/2009		Amendment 00		
ArcelorMitt	al	AUTHOR:	HUMAN RESOURCES DEPARTMENT				
Section/Regulation			Requirement				
			inistrative services will depend on the type of shifts or permanently; there will be less of a need if em				
	10.6	Employees working at night sho	ould not be disadvantaged in having access to edu	cation and training.			
			ion activities and the activities of participative bo I so as to allow employees who work at night to pa		ıms or health and safet		
			yees' meal intervals to 30 minutes in terms of sect ering the health and safety of employees.	ion 14(5)(a) of the BCEA sho	ould not be concluded if		
	10.9	0.9 Employers must ensure that employees receive adequate rest periods.					
		The number and duration of rest pauses during the shift and rotation should be adapted to the workload. Particular attention must be given to the scheduling of rest periods for employees who are engaged in-					
		10.10.1 physically and mentall 10.10.2 work involving manual 10.10.3 work involving repetitiv 10.10.4 monotonous work; 10.10.5 shifts of longer than ei	lifting; ve movement;				
Code of practice for the	COPING STRATEGIES						
arrangement of working time	Employers should provide appropriate and up-to-date information to employees about coping strategies, both in the workplace and at home. Strategies that will assist employees to cope with shift work and night work include -						
	11.1	11.1 maintaining a regular sleeping routine;					
	11.2	11.2 taking steps to block out noise and light for employees who have to sleep in the day;					
	11.3	11.3 maintaining a healthy diet;					
	11.4	11.4 exercise and relaxation.					
Code of practice for the			GLOSSARY				

ARCELORMITTAL SOUTH AFRICA LTD: LEGAL COMPLIANCE REGISTER			Document Number:	HR001	
l	REVISION No.:	0		Page 15 of 15	
	DATE:	09/06/2009		Amendment	00
ArcelorMittal ArcelorMittal	AUTHOR:	HUMAN RESOURCES DEPARTMENT			
Section/Regulation		Requirement			

# arrangement of working time

Continuous shift work - the employer operates 24 hours a day, seven days a week, all year round.

Semi-continuous shift work - the employer operates 24 hours a day without a daily break, but with a break at the weekend.

**Discontinuous shift work** - the employer operates less than 24 hours a day with at least one daily break. A "two-shift" system is the most common discontinuous shift system.

**Short or part-time shifts** - daily scheduled working hours that are substantially shorter than eight hours.

Long shifts - daily scheduled working hours that are substantially longer than eight hours.

Rotating (or alternating) shifts - workers alternate between different shifts. There are three key elements to rotation:

- (i) The direction of rotation rotation can either be forward (clockwise, for instance, morning to afternoon to night) or backward (or counter-clockwise). In forward or advancing shifts, the starting time of one shift in a shift worker's schedule is always later on the 24-hour clock than the previous shift. In a continuous shift system workers will work a morning shift. In backward or delaying rosters one shift always begins at an earlier time than the previous shift;
- (ii) The frequency employees may change shifts every week or at shorter or longer intervals;
- (iii) The length of the cycle the period required for a complete schedule of rotation, after which the cycle is repeated.

Fixed (or permanent) shifts - employees work permanently on a single shift.