

Working Time Regulations

1. Summary

1.1 Most workers cannot be forced to work more than average working week of 48 hours (normally to be averaged over 17 weeks). If worker does not complete 17 weeks, average taken over weeks worked. Adolescents (16 and 17 year olds) ordinarily restricted to 8 hours a day or 40 hours a week, no averaging.

1.2 Entitlement to minimum daily rest period of 11 consecutive hours in each 24 hour period (not necessarily same day). Adolescents 12 hours which may be split if work split over day or of short duration.

1.3 Entitlement to 1 rest day per week averaged over 14 day period starting Mondays. Adolescents entitled to 2 rest days per week, no averaging, but may reduce to 36 hours under pressing circumstances.

1.4 Entitlement to free health checks for night workers who should not normally work more than 8 hours in any 24 hour period. Night worker someone who normally works at least 3 hours between 11pm and 6am. An agreement may specify night hours between midnight and 5am.

1.5 Adolescents may not ordinarily work at night between 10pm to 6am or alternatively from 11pm to 7am; however they may work at night between midnight and 4am in hospitals or similar establishments and in connection with cultural, artistic, sporting or advertising activities; they may also work between 10pm or 11pm to midnight and between 4am to 6am or 7am in these sectors and also agriculture, retail trading, hotel or catering businesses, bakery, or postal or newspaper deliveries.

1.6 Adolescents working at night require capabilities assessment must be adequately supervised by an adult if that is necessary for their protection, and must be given compensatory rest where working time would otherwise have been a rest period.

1.7 Entitlement to rest break (min 20 mins) if working day longer than 6 hours. (Adolescents 30 mins if more than 4.5 hours). Rest breaks unpaid and do not constitute working time unless agreement to contrary.

1.8 Entitlement of 28 days paid annual leave (if working 5 days a week) and payment in lieu upon leaving if untaken.

2. Opt out and exception of partly unmeasured working time

2.1 Individual workers allowed to voluntarily opt out of working only 48 hour average working week. No specific provision for individuals to voluntarily vary night working hours. Individuals may waive entitlements.

2.2 Opt out agreements must be in writing and specify time limit or say they are indefinite. If indefinite, workers may end agreement on 7 days notice (unless agreement specifies longer period of notice which must not be more than 3 months).

2.3 Workforce Agreements (and Collective Agreements) may permit groups of workers to vary rest breaks and periods, night work hours and reference periods for averaging weekly and night working hours provided compensatory rest given or appropriate protection if compensatory rest impossible.

2.4 Workers may have element of their working time pre-determined, but otherwise decide how long they will work. Additional hours workers choose do not count as working time (except night hours). Key factor is worker choice without detriment. Exception does not apply to:

- Working time hourly paid
- Prescribed hours of work
- Situations where worker under close supervision
- If worker expressly required to work e.g. attend meeting
- If worker implicitly required to work e.g. loading or requirements of job or because of possible detriment if worker refuses.

3. Records & Working time

3.1 Employers must keep records available for inspection by certain officials:

- to show compliance with weekly working time limit (unless opt out) and paid leave for up to 2 years; and
- to show which workers currently agreed to opt out

3.2. In absence of any agreement to contrary, working time is actual hours worked. It is not rest breaks or rest periods or periods on call if not called.

4. Exceptions

4.1 Workers excluded from regulations (existing or new regulations govern these sectors):

Doctors in training (phased in reduction of hours per week 2004/2009); mobile workers at sea and on inland waterways; and specific activities of armed forces, police and other civil protection services.

4.2 Workers excluded from some regulations except annual leave:

Domestic servants (excluded from restrictions on working hours and night work but not from rest periods or breaks); and where working time not pre-determined or measured because worker can determine own working time e.g. Managing executives, family workers, church officials.

4.3 Workers excluded from rest periods and night work provisions if equivalent compensatory rest given (weekly working may be averaged over 26 weeks (or up to 52 weeks by formal Agreement):

If home and place of work distant e.g. oil rig workers, sales representatives; if work involves security or surveillance or where permanent presence required for protection e.g. security guards or caretakers and security firms; if work involves need for continuity of service or production; if foreseeable surge of activity e.g. in agriculture, tourism and postal services; if activities affected by unusual and unforeseeable occurrence, beyond control of employer e.g. accidents.

4.4 Workers excluded from rest periods providing compensatory time off or “adequate rest”:

some mobile workers; shift workers where periods between shifts insufficient to allow; and if work split over the day e.g. restaurant workers, cleaners, split shifters.

5. Free health assessments for night work

5.1 Workers to be offered free assessments complying with medical confidentiality (although employers and assessors allowed to make statements as to fitness for work).

Useful Links: <http://www.hse.gov.uk/contact/faqs/workingtimedirective.htm>