

# Working Time

## Introduction

Working time, or the hours worked by employees, has become an issue of increasing focus in the last decade, not only in the consideration of workplace health and safety, but in the wider discussion on lifestyle and public health. This Guidance Note considers the issue of working time from the perspective of health and safety only.

Both shift work and long working hours, individually and in combination, can have significant impacts on the health and safety of employees. Aside from fatigue and stress, long hours and shift work can adversely affect the health of workers over the longer term.

The principal legislation in this area is the Working Time Regulations 1998 (the Regulations). Since they were introduced they have been amended on a number of occasions.

The Regulations, among other things, define who a worker is; set parameters for working time and time off; and provide for health assessments and annual leave.

## Basic requirements of the Regulations

- a 48-hour week
- limits on night work
- entitlement to rest periods
- entitlement to annual leave

## The 48-hour week

“Employers need to take all reasonable steps to ensure workers do not work more than an average of 48hrs a week over a 17-week period.”

## Flexibility

- Workers can sign individual agreements not to apply the working time limit.
- Working time does not include travelling between home and work, lunch breaks, evening classes or day-release courses.
- Reference periods can be extended to 26 weeks or 52 weeks under workforce agreements.

## Young Workers

Young workers are limited to work no more than 8 hours per day and 40 hours a week under ordinary circumstances. This cannot be averaged over a set period and there is no opt-out available. This may however be extended in order to maintain continuity of service or production, or in response to a surge in demand. They may only do this if there is no adult available and the training needs of the young worker are not adversely affected.

## What is working time?

Working time is defined as a worker, 'working, at his employers' disposal and carrying out his activity or duties'. This would include working lunches, (for example business lunches).

Where a worker is required to travel as part of their work, for example maintenance or sales personnel, the travel time counts as working time, likewise with job-related training. However, commuting to and from work to home is not considered to be working time, nor is training or education that is not job related.

## Rest Periods

There are three different types of rest period covered in the Regulations: -

1. Daily rest
2. Weekly rest
3. In-work rest breaks

### Daily Rest

Workers are entitled to a rest period of **11 uninterrupted hours** between each working day.

Young workers are entitled to **12 uninterrupted hours** in each 24-hour period in which they work. The rest may be interrupted if periods of work are split up over the day or do not last long. A young worker's entitlement to daily rest can be reduced or excluded in exceptional circumstances only.

### Weekly Rest

A worker is entitled to an uninterrupted rest period of not less than **24 hours** in each 7 day period. Days off can be averaged over a two-week period, meaning workers can take two days off a fortnight.

Young workers are entitled to two days off each week. This cannot be averaged over a two-week period, and should normally be two consecutive days.

### In-work Rest Breaks

Adults are entitled to an uninterrupted break of 20 minutes when the working day is greater than 6 hours.

Young workers are entitled to an uninterrupted break of 30 minutes when the working day is greater than 4 ½ hours.

These breaks should not be at the beginning or the end of the working day, but it is for the employer to decide the exact timing. Employees should be able to take the breaks, but employers are not required to ensure that they take them.

### Holiday Entitlement

Holiday entitlement is 4.8 weeks annual leave per year.(24 days if you work a five day week) and from 1 April 2009 to 5.6 weeks (28 days if you work a five day week), pro-rata for those working part-time. The holiday entitlement is inclusive of bank holidays. If you already receive paid time off for bank holidays in addition to your four week holiday entitlement your holiday entitlement has not increased.

## **Paid Annual Leave**

A week's leave should be equivalent to the time a worker would work in a week.

The right to paid holidays begins on the first day of employment, however, employers can opt to use an accrual system where during the first year of employment, the proportion of the leave which may actually be taken (with the employer's agreement) builds up over the year. The amount of leave that can be taken builds up monthly in advance at the rate of one-twelfth of the annual entitlement each month.

## **Night Work**

Employers are required to take all reasonable steps to ensure 'normal' hours of night work do not exceed an average of **8hrs** for each 24hr period, averaged over a 17 week reference period (see below for explanation)

Night Work involving special hazards, or heavy physical or mental strain, is subject to an absolute limit of 8hrs in any 24hr period.

Night-time is defined as between 11pm and 6am although this can be varied where workers and employers agree. A night worker is someone who normally works at least three hours a night.

Young workers may not ordinarily work at night between 10pm and 6am, or between 11pm and 7am if the contract of employment provides for work after 10pm.

The sectors where young workers may work throughout the night are:

- hospitals or similar establishments

The sectors where young workers may work between 10 or 11pm to midnight and between 4am to 6 or 7am are:

- agriculture
- retail trading
- postal or newspaper deliveries
- a catering business
- a hotel, public house, restaurant, bar or similar establishment
- a bakery

## **Night Workers are:**

- any worker whose daily work includes at least three hours of night time.
- Workers who work night-time (at least three hours) as a normal course (on a shift basis, or weekly).

The reference period may be extended in certain circumstances and night-work limits may be modified or excluded by workforce agreement. However, employers have to give a period of compensatory rest or if that isn't possible be given other appropriate protection.

## **Health Assessments for Night Workers**

All employers must offer night workers a free health assessment before they start working nights (but the employee does not have to choose to accept it) and on a regular basis while they are working nights. Many businesses choose to do this on an annual basis, though employers can do it more often if they feel it's necessary. The assessment can be made up of two parts: a questionnaire and a medical examination. The latter is only necessary if the employer has doubts about the worker's fitness for night work.

**NB. The average weekly working time is calculated by dividing the number of hours worked by the number of weeks over which the average working week is being calculated.**

### **Overview:**

Employers should:

- keep a record of who has agreed to work longer hours (opt outs)
- provide health assessments to night workers
- check with employers that they do not work for another employer
- check occasionally that the limits required in the Regulations are not being breached and that the requirements regarding rest periods are being fulfilled
- monitor closely those workers who appear to be working close to the limits and are at risk of breaching them
- keep annual leave records
- monitor young workers to ensure their working hours and rest periods are in accordance with the Regulations.

### **References:**

- The Working Time Regulations 1998
- The Working Time Regulations 1999
- The Working Time (Amendment) Regulations 2002
- The Working Time (Amendment) Regulations 2003
- The Working Time (Amendment) Regulations 2007