

# A Guide to the Working Time Regulations 1998

Business Information Factsheet  
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## Introduction

The Working Time Regulations 1998 and the Working Time (Amendment) Regulations 2003 (the Regulations) provide protection to workers in England, Wales and Scotland by laying down the minimum health and safety requirements for the organisation of working time. The Regulations establish guidelines for maximum weekly working time, minimum periods of daily and weekly rest and minimum periods of annual leave. The Regulations also cover aspects of night work, shift work and overall patterns of work.

In Northern Ireland, working time is covered by the Working Time Regulations (Northern Ireland) 1998 and the Working Time (Amendment) Regulations (Northern Ireland) 2007.

This factsheet outlines who the Regulations apply to and explains what employers must do to ensure they comply with them.

Employment law is complex, and this factsheet is intended as a starting point only. Professional advice should be sought before any decisions are made.

## Who do the Regulations apply to?

The Regulations apply to workers whether they work part or full-time, including most agency workers and freelancers.

The Regulations also apply to young workers (workers over compulsory school leaving age but aged 17 or under) although specific provisions apply to them, which are covered in the 'Young workers' section of this factsheet. The provisions in the Regulations relating to young workers apply to all employers, regardless of whether their industry is otherwise excluded.

## Working time limits

The Regulations require an employer to take all reasonable steps to protect the health and safety of workers by ensuring that the working time of any individual worker does not exceed an average of 48 hours per week.

Working time may include travelling where it is part of the job, for example, sales representatives travelling to see clients, working lunches and job-related training. It does not normally include travelling between home and work, lunch breaks, evening classes or day-release courses that are not a requirement of the job. Average weekly working time is normally calculated over 17 weeks. This can be longer in certain situations and may be extended under collective or workforce agreements.

Every employer must check how much time each worker spends working. If a worker is working more than an average of 48 hours a week, the employer should determine how they can reduce their hours or, alternatively, ask if they are willing to sign an opt-out from the working time limit (see below).

If employers know a worker has a second or third job, to ensure compliance with the Regulations they must either ensure the total hours worked do not exceed 48 or agree an opt-out with the worker.

## **Opt-out agreements**

Workers can agree to work longer than the 48-hour limit. An opt-out agreement must be in writing and be signed voluntarily by the worker. The agreement does not need to be renewed unless it relates only to a specified period. Employers need to maintain a record of which workers have signed an opt-out. No further records for these workers are required.

Workers can cancel the opt-out agreement whenever they want, although they must give at least seven days' notice, or longer (up to three months) if this has been previously agreed.

There is no opt-out available from the working time limits for young workers and there is no opt-out of the minimum holiday entitlement.

## **Rest breaks**

Workers have the right to an uninterrupted break of 20 minutes if they are required to work continuously for more than six hours. There is no restriction as to when the break must be taken but, ideally, it should be during the middle of the six-hour period. The breaks do not have to be paid unless the contract specifically provides for this.

Workers are entitled to an uninterrupted rest period of 11 hours between each working day (ie in every 24-hour period) and to one uninterrupted weekly rest period of not less than 24 hours in each seven-day period. At the employer's choice, the weekly rest period can be taken as either two periods of at least 24 hours in each 14-day period, or one uninterrupted period of no less than 48 hours in each 14-day period.

## **Annual leave**

Under the Regulations, workers are entitled to 5.6 weeks (28 days) of paid leave each year (pro rata for part-time workers). This may include bank or public holidays.

An employer can ask a worker to take all or any of their leave entitlement on specified dates, provided they are given notice before the leave is due to start. The period of notice must be at least twice as long as the leave period - for example, three weeks' leave would require a minimum of six weeks' notice. Otherwise, workers are entitled to choose their leave dates, subject to giving the same notice as employers are required to give and any other rules the business may have.

There is currently no statutory entitlement to bank and public holidays. Legally, the right to take bank and public holidays is a matter for agreement between employers and their workers, and an employer may count the eight annual bank holidays as part of the 28-day statutory holiday entitlement.

## Night workers

Employers are required to take all reasonable steps to ensure that the 'normal hours' of night workers do not exceed an average of eight hours in any 24 hours, averaged over a 17-week period. 'Normal hours' will not include overtime unless it is required as part of the contract. There is an actual (as opposed to average) limit of eight hours in each 24-hour period where the work involves special hazards or heavy physical or mental strain.

Night is classed as the period between 11.00pm and 6.00am, although this can be adjusted by the terms of a relevant agreement. If employers do adjust this time period, it must be at least seven hours long and include the period from midnight to 5.00am.

Night workers are entitled to a free health assessment before they commence night work and thereafter at regular intervals. However, workers are not obliged to have a health assessment if they do not want one. A health assessment may comprise two parts: a questionnaire and a medical examination (which is necessary only if a worker's fitness for night work is in question). Employers should seek help from a qualified health professional when drawing up and assessing this questionnaire.

Any workers suffering from problems directly related to working at night should be transferred to day work where possible. The suitability of certain vulnerable groups of people for night work, especially new or expectant mothers and young workers, should be given special consideration.

Young workers may not be employed at night during the so-called 'restricted period', which is the period between 10.00pm and 6.00am. This can be changed to the period between 11.00pm and 7.00am by a written agreement between the employer and the young worker. A contract of employment will count as such an agreement.

## Young workers

Young workers are classed as those who are over the minimum school leaving age, but have not yet reached the age of 18. They cannot ordinarily work for more than eight hours a day or 40 hours a week, although there are certain permitted exceptions. The hours worked cannot be averaged out and there is no opt-out available.

Young workers may work longer hours where this is necessary either to:

- Maintain continuity of service or production.
- Respond to a surge in demand for a service or product.

These exceptions can apply only where there is no adult available to perform the task and the training needs of the young worker are not adversely affected.

Different rules apply to young workers regarding rest breaks. If a young worker is required to work for more than 4.5 hours at a stretch, they are entitled to a rest break of 30 minutes. A young worker's entitlement to rest breaks can be changed or excluded only in exceptional circumstances.

## Road transport drivers

The Road Transport (Working Time) Regulations 2005 and the Road Transport (Working Time) (Amendment) Regulations 2012, which cover England, Wales and Scotland, and the Road

Transport (Working Time) Regulations (Northern Ireland) 2005 and the Road Transport (Working Time) (Amendment) Regulations (Northern Ireland) 2012 apply to drivers in the road transport sector and control the maximum number of hours they can work. Drivers can work for a maximum of 60 hours in a single week, as long as they do not exceed an average of 48 hours each week, calculated over a four-month period (this can sometimes be calculated over a six-month period by prior agreement). After 4.5 hours of driving, the driver must take a break of at least 45 minutes, during which time they may not carry out other work. Drivers must be given a rest period of 11 hours in any 24-hour period. Go to [www.gov.uk/government/publications/working-time-regulations-for-mobile-workers](http://www.gov.uk/government/publications/working-time-regulations-for-mobile-workers) for further information.

## Record keeping

All employers need to keep records to show that their business complies with the weekly working time limits. It is up to employers to determine which records need to be kept. It may be possible to use existing records maintained for other purposes, such as payroll, or it may be necessary to start new records. Records must be kept for two years.

Employers do not have to keep a running total of how much time workers work on average each week. They need only make occasional checks of workers who do standard hours and who are unlikely to reach the average 48-hour limit. However, employers should monitor the hours of workers who appear to be close to the working time limit, and make sure they do not work too many hours. Employers need to keep an up-to-date record of workers who have agreed to work more than 48 hours a week.

If an employer employs night workers, they should keep a record of the name of each worker, when they had a health assessment and the result of that assessment.

## Who enforces the Regulations and what are the penalties?

Broadly, the Health and Safety Executive (HSE) and local authorities are responsible for enforcing the maximum weekly working time limit, night work limits and health assessments for night work. However, they do not enforce time off, rest break entitlements or paid annual leave entitlements.

While the HSE and local authorities are mainly responsible for enforcing the Regulations, for certain sectors they share enforcement responsibility with other organisations such as the Driver and Vehicle Standards Agency.

Workers can take complaints against their employer to an employment tribunal. Employers found guilty of not complying with the Regulations may have to pay an unlimited fine, face up to two years in prison, or both.

## Further information

BIF 2 An Introduction to Health and Safety Regulations  
BIF 39 A Health and Safety Compliance Checklist

## Useful contacts

Acas offers practical, independent and impartial help to employers, employees and their representatives by providing information and advice, preventing or resolving disputes, and

settling complaints about employees' rights without the need for an employment tribunal hearing.

Tel: 0845 747 4747

Website: [www.acas.org.uk](http://www.acas.org.uk)

The Health and Safety Executive (HSE) is responsible for health and safety regulation in England, Scotland and Wales. It publishes guidance on the health and safety obligations of employers.

Tel: 0300 003 1747

Website: [www.hse.gov.uk](http://www.hse.gov.uk)

The Health and Safety Executive Northern Ireland (HSENI) is responsible for health and safety regulation in Northern Ireland. It provides information on the health and safety obligations of employers.

Tel: 0800 032 0121

Website: [www.hseni.gov.uk](http://www.hseni.gov.uk)

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