



WORKING TIME REGULATIONS

Reviewed August 2011

New Working Time Regulations

There are few statutory requirements relating to hours of work, and those that do exist apply primarily to shop assistants, drivers of goods and public service vehicles and young children. It is, however, a requirement of the ERA 1996 that hours of work are specified in the written statement of terms and conditions of employment.

The Government intended that draft Regulations implementing the Working Time Directive were to come into force for all employees by 1st October 1998. These regulations previously only applied to workers in the public sector. The purpose of the Directive is to protect people's health and safety because excessive working time being a major cause of stress, depression and illness.

The main provisions of the Directive are:

- a) a maximum weekly working time of 48 hours (including overtime) over a seven day period averaged over four months,
- b) a rest break after six hours' continuous work,
- c) a daily rest period of 11 consecutive hours in each 24 hour period,
- d) a minimum weekly rest period of 24 consecutive hours, plus the 11 referred to in (c), in each seven day period,
- e) an average night shift length of eight hours in any 24 hour period (with a maximum shift length of eight hours for hazardous or strenuous work),
- f) a minimum of four weeks paid annual leave, which cannot be cashed in.

There are some exemptions and exceptions to the Directive:

- a) industries such as air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and doctors in training;
- b) types of workers such as managing directors, other persons with autonomous decision making powers, family workers or workers officiating at religious ceremonies – though these workers are not exempt from the annual leave provisions, this clause will cover Secretary/Manager's of Golf Clubs;
- c) collective agreements which allow for longer working hours, as long as the workers concerned are allowed 'equivalent periods of compensatory rest' – though the exception does not apply to the 48 hour week and minimum leave provisions;
- d) industries and occupations which Member States can exempt from the set limits (except the 48 hour week and minimum leave entitlement), as long as there are equivalent periods

of compulsory rest. These include agriculture, dock and airport workers, press, radio, television, cinema production, postal and telecommunications services, ambulance, fire and civil protection services, gas, water and electricity production, transmission and distribution, household refuse collection, hospitals, residential institutions and prisons, continuous production industries, research and development activities, security and surveillance and activities where the worker's place of work and place of residence are distant from one another.

The provision on the 48 hour maximum week can be overridden if the employee voluntarily agrees to work longer hours provided that 'no worker is subject to any detriment by his employer because he is not willing to carry out such work'.

Opting out of the 48 hour week

If you are 18 or over and wish to work more than 48 hours a week, you can choose to opt out of the 48 hour limit. This must be voluntary and in writing. It can't be an agreement with the whole workforce.

You shouldn't be sacked or unfairly treated (for example refused promotion or overtime) for refusing to sign an opt-out. You can cancel your opt-out agreement whenever you want - even if it is part of your employment contract. However, you must give your employer at least seven days notice. This could be longer (up to three months) if you previously agreed this in writing with your employer.

Your employer is not allowed to force you to cancel your opt-out agreement.

Example of opt-out agreement

I [name] agree that I may work for more than an average of 48 hours a week. If I change my mind, I will give my employer [amount of time - up to three months] notice in writing to end this agreement.

Signed.....

Dated.....

For further advice see:

Gov UK - For help and advice on working hours & employment contracts see <https://www.gov.uk/maximum-weekly-working-hours>

ACAS (Arbitration, Conciliation and Advisory Service), will be able to help with matters concerned with time off, rest breaks, paid annual leave and other general employment information.

ACAS Helpline: 08457 47 47 47 or see <http://www.acas.org.uk/index.aspx?articleid=1360>

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