



Guidance on the working time regulations

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1. Introduction

In accordance with the Working Time Directive of the Council of the European Union, the U.K. Government has introduced the Working Time Regulations to comply with the requirements of the Directive. Outlined below are some key definitions from the Regulations and an overview of the main points from the legislation.

2. Key definitions

Day

A period of 24 hours beginning at midnight.

Daily rest

Eleven consecutive hours rest in any 24 hour period.

Excluded time

This applies in those circumstances where working hours may be averaged over a given reference period (e.g. the limitation on working no more than 48 hours per week may be averaged over a 17 week reference period). Excluded time is days during the reference period when the employee does not work for reasons such as sick leave, maternity leave etc. Where a reference period includes such excluded time, the reference period may be extended by the equivalent number of days in order to carry out the averaging calculation.

Exempt staff

- On the basis of advice from the Universities and Colleges Employers Association (UCEA) the following groups of staff are considered to be exempt from all aspects of the Regulations except the provision for annual leave:
 - All Academic Grades
 - Admin/Library/Computing/Other Related Grade 6
 - Research Grade IV
- N.B. In the case of staff in other Academic Related grades, any hours worked which are not measured or predetermined or can be determined by the member of staff him/herself will not count towards the regulations on Maximum Weekly Hours and Night Work.
- Workers employed in security and surveillance activities where a permanent presence is required are exempt from the provisions on daily rest, rest breaks, weekly rest and length of night work.

Night Time

The hours between 11pm and 6am.

Night Worker

A worker who normally works at least 3 hours of his/her working time during night time (on the majority of days worked, or as a regular part of a rotating shift pattern) or who is likely to work 50% or more of his annual working time during night time.

Week

A period of 7 days starting after midnight between Sunday and Monday.

Weekly rest

A minimum uninterrupted rest period of 24 hours in any 7 day period (calculated over a 14 day reference period including weekends) in addition to the daily rest period.

Worker

Any person who works under a contract of employment or under any other contract, whether express or implied and whether oral or in writing, where the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual.

Working time

- Working time is defined as when an employee is:

- working
 - and
 - at the employers disposal
 - and
 - carrying out his activities or duties
- So time when a worker is on call, but not working, would not meet all three of the above criteria and would not, therefore, count as working time.
 - A lunch break when not working would not count as working time.
 - An employer must take reasonable steps to ensure the 48 hour limit is not exceeded – including checking whether a worker has a second job and, if so, whether this results in exceeding the limit.

Young Worker

Any worker aged over the minimum school leaving age, but under 18.

3. Maximum weekly hours

- 3.1. An employer must take all reasonable steps to ensure that workers do not work more than an average of 48 hours a week over a (rolling) 17 week period.
- 3.2. Under certain circumstances the reference period may be extended to 26 or 52 weeks.
- 3.3. If the reference period includes a period of leave (sick, annual, maternity etc.) it should be extended by the number of days of the absence in order to calculate the average weekly hours.
- 3.4. An employer must take reasonable steps to ensure the 48 hour limit is not exceeded – including checking whether a worker has a second job and, if so, whether this results in exceeding the limit.

4. Individual choice

- 4.1. A worker can enter into a written agreement that he/she will work more than the 48 hour average. The form of agreement used by the University is the “Working time regulations opt out form”.
- 4.2. A written record must be kept of all such agreements. These records must be kept for 2 years and be available on demand to the Health and Safety Executive (HSE).

5. Daily rest

A worker is entitled to a rest period of 11 consecutive hours between each working day (12 hours for young workers except where periods of work are “split up over the day or are of short duration”).

6. Weekly rest

- 6.1. A worker is entitled to an uninterrupted rest period of not less than 24 hours in each 7 day period (2 days in 7 for young workers, which may not be averaged over 2 weeks. This may be reduced in very exceptional circumstances, in which case compensatory

rest must be provided within 3 weeks). This may be averaged over a 2 week period (i.e. 2 days rest per fortnight).

- 6.2. Daily rest and weekly rest are separate entitlements which should normally be taken consecutively (i.e. there should be 1 period per week, or 2 per fortnight, of 11+24=35 hours continuous rest). The daily rest may be incorporated into the weekly rest period if this is justifiable by “objective or technical reasons, or reasons concerning the organisation of work” – these will be rare.

7. Rest Breaks

A worker is entitled to an uninterrupted rest break of 20 minutes when daily working time is more than 6 hours (30 minutes in 4.5 hours for young workers). It should be a break in working time and should not be taken either at the start or the end of a working day or overlap with the daily rest period.

8. Annual Leave

A worker is entitled to 4 weeks and 4 days paid leave each year. The statutory leave entitlement may not be paid in lieu (except on termination of employment) or carried forward (contractual leave above the statutory entitlement may be carried over, but the University's normal rules on carry forward of leave will apply).

9. Night Work

An employer is required to take all reasonable steps to ensure that the “normal” hours of their night workers does not exceed an average of 8 hours for each 24 hours over a 17 week period (extendable as for the 48 hour period above). The “normal hours” are those fixed by the contract of employment and do not include overtime or leave.

10. Records

- 10.1. An employer is required to keep adequate records to demonstrate, if required by the HSE, that the limits on night work are being observed. Records also need to be kept of Health Assessments (see below).
- 10.2. If the standard working hours for night duty staff do not exceed the regulations and there are no occasions when the standard hours are exceeded, our current understanding is that this will be sufficient evidence.

11. Health Assessments

- 11.1. An employer must offer a free health assessment to any worker who is to become a night worker and also provide the opportunity to have further assessments at regular intervals.
- 11.2. If a registered medical practitioner indicates that a worker is suffering from health problems connected with the fact that he/she works nights, he/she is entitled to be transferred, wherever possible, to other suitable work which is not at night.
- 11.3. Occupational Health has established a system to meet this requirement. Heads of School/Service who employ staff who meet the definition of a Night Worker must advise Occupational Health whenever a new person is employed in this capacity, or when a night worker leaves the University's employment, or ceases to work in a pattern which meets the Night Worker definition.