

Guidelines

Title: WORKING TIME REGULATIONS

Ref: HR/ER

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1. Introduction

The Working Time Regulations came into effect from 1 October 1998. These regulations implemented the Working Time Directive which was adopted by the European Council under health and safety provisions. The purpose of the regulations is to lay down minimum health and safety requirements for the organisation of working time. The regulations cover:

- Minimum periods of daily rest
- Weekly rest
- Annual leave
- Breaks
- Maximum weekly working time
- Regulation of night work

For the present it is assumed academic and related staff are excluded from these regulations as their working time is unmeasured.

Who is covered by the Regulations?

Anyone who works under a contract of employment.

Anyone who works on any other contract whereby the individual undertakes to perform work or service ie agency workers, contractors, freelancers. It is likely to cover hourly paid tutors and demonstrators.

The definitions of who is included cover a wide range of individuals carrying out work for the University, with the exception of those self-employed people whose work amounts to a business activity on their own account.

Definitions contained in the regulations

- Working Time means any time when the worker is engaged in any activity on behalf of the employer. This includes travel between work places, attending training sessions, or even time at home when engaged on necessary employer business. Employees who do 'on call' rotas are probably not at work unless 'called' in.
- Rest Period means any period which is not working time.
- Night Time is a period of not less than 7 hours including the period between midnight and 5 am. This period can be agreed but in the absence of an agreement the default is 11 pm – 6 am.
- Night Worker means an employee who, during night time, normally works at least 3 hours of their daily working time or who is likely, during night time, to work a certain proportion of their annual working time.
- Shift Work means any method of organising work in shifts whereby workers succeed each other at the same work station according to a certain pattern, which may be continuous or discontinuous.

Main Provisions

These regulations will have an impact on the management of working hours at the University. The University has made a number of local agreements with the Joint Campus Trade Unions and these are indicated in italics.

Please find below the main provisions of the regulations:

Daily rest period	11 consecutive hours per 24 hour period.
Weekly rest period	All employees should receive an uninterrupted weekly rest period of 35 hours (including 11 hours daily rest) in each seven-day period for which they work for their employer. Where this is not possible, they should receive equivalent rest over a 14 day period, either as one 70-hour period or as two 35-hour periods.
Breaks	Where the working day is longer than 6 hours, workers are entitled to a rest break. In the absence of an agreement this must be not less than 20 minutes.
Maximum weekly working time	Employees will normally not be expected to work more than 48 hours per each seven-day period (including overtime) calculated over an averaging period of 26 weeks. In exceptional circumstances for those involved in the need for continuous service eg Reception, residences, the reference period may be extended by agreement with the individual at departmental level to a maximum of 52 weeks.
Paid leave	A minimum of three weeks paid leave in each leave year which goes to 4 weeks paid leave from 23 November 1999 subject to a 3 months service requirement. This will be pro-rata for part-time employees.
Regulation of night work	Departments should ensure that night workers should not normally work more than an average of 8 hours in any 24 over a 17-week period: <ul style="list-style-type: none">• Where the worker is suffering from health problems connected with night work they are entitled 'wherever possible' to be transferred to suitable day work.• Where night work involves special hazards, heavy physical or mental strain then no more than 8 hours in any 24 can be worked. There is no averaging. Departments will arrange night workers to receive a free health assessment with the University Occupational Health Service at the start of night work and then annually .
Compensatory rest	In exceptional circumstances, and by agreement with the worker, where a rest break cannot be taken, the unused entitlement should be claimed as a period of compensatory rest. Managers should ensure that the provision is made for compensatory rest to be taken, this should normally be within two weeks.
On-call staff	Staff who have to be on-call and so are available for work if called upon, will be regarded as working from when they are required to undertake any work related activity. If staff are on-call but free to pursue time as their own, this will not count towards working time. This method of calculating working time will not affect on-call payments.

Individual Opt-Out

Individuals may choose to work more than the 48 hours average weekly limit if they agree with their employer in writing. A decision to exercise this option is an individual, voluntary one and no pressure should be placed on an employee to take this option. Notice of three months will be given at any time to end any opt-out other than in extenuating circumstances where short notice may be given.

Derogations and Exemptions Contained in the Regulations

There are a number of individuals and circumstances that are excluded from the coverage of the Regulations either in full or part:

i. Exclusions by Category of Workers

Including the activities of doctors in training which would include junior hospital doctors; specified service activities ie the armed forces and identified sectors of activities ie air, road, sea etc transport, sea fishing and other work at sea. This group is excluded from the regulations.

ii. Exclusions for Unmeasured Working Time

Where on account of the specific characteristics of the activity in which they are engaged, the duration of their working time is not measured or predetermined or can be determined by the worker themselves (ie the worker genuinely controls their work determining how many hours they work). These workers are exempt from the 48 hour week, minimum daily and weekly rest periods, rest breaks and daily hours of night working. They are still covered by the paid leave provisions and health assessment for night workers.

It is likely that staff whose contracts do not specify the number of weekly hours required to do the job will be covered by this exclusion. This exclusion will include all academic and academic related staff.

iii. Exclusions that are special cases

Workers engaged in security or where there is a need for continuity of service ie gas, water and electricity production.

These workers are exempt from the length of night work daily and weekly rest periods and rest breaks. They are still covered by the paid leave provisions, health assessment for night workers and the maximum weekly working time.

Note: The derogations and exemptions detailed in this section are a summary and do not provide the full list of exclusions by category of worker or those that are special cases.

Enforcement

There will be enforcement of the regulations in both the following ways:

- a) Through claims made to employment tribunals by individual employees
- b) Health and safety law enforcement through fine, possibly imprisonment and inspections by the Health and Safety Executive.

It is for Heads of Academic Unit/Services to ensure staff comply with the Working Time Regulations.

Record Keeping

Under the regulations the Department are obliged to keep specific records about working hours. Records will need to show that the limits on weekly work, night work as well as the obligations in relation to health assessments for night work are being complied with.

Failure to keep these records – going back two years will be an offence in law.

It may well be that existing departmental recording systems fulfils this requirement and Heads of Academic Unit/Services need not take further action ie flexi-time sheets, clocking systems, signing in and out sheets etc.