
STATUTORY INSTRUMENTS

1998 No. 1833

The Working Time Regulations 1998

PART III

EXCEPTIONS

Excluded sectors

18. Regulations 4(1) and (2), 6(1), (2) and (7), 7(1), and (6), 8, 10(1), 11(1) and (2), 12(1), 13 and 16 do not apply—

- (a) to the following sectors of activity—
 - (i) air, rail, road, sea, inland waterway and lake transport;
 - (ii) sea fishing;
 - (iii) other work at sea; or
- (b) to the activities of doctors in training, or
- (c) where characteristics peculiar to certain specific services such as the armed forces or the police, or to certain specific activities in the civil protection services, inevitably conflict with the provisions of these Regulations.

Domestic service

19. Regulations 4(1) and (2), 6(1), (2) and (7), 7(1), (2) and (6) and 8 do not apply in relation to a worker employed as a domestic servant in a private household.

Unmeasured working time

20. Regulations 4(1) and (2), 6(1), (2) and (7), 10(1), 11(1) and (2) and 12(1) do not apply in relation to a worker where, on account of the specific characteristics of the activity in which he is engaged, the duration of his working time is not measured or predetermined or can be determined by the worker himself, as may be the case for—

- (a) managing executives or other persons with autonomous decision-taking powers;
- (b) family workers; or
- (c) workers officiating at religious ceremonies in churches and religious communities.

Other special cases

21. Subject to regulation 24, regulations 6(1), (2) and (7), 10(1), 11(1) and (2) and 12(1) do not apply in relation to a worker—

- (a) where the worker's activities are such that his place of work and place of residence are distant from one another or his different places of work are distant from one another;

- (b) where the worker is engaged in security and surveillance activities requiring a permanent presence in order to protect property and persons, as may be the case for security guards and caretakers or security firms;
- (c) where the worker's activities involve the need for continuity of service or production, as may be the case in relation to—
 - (i) services relating to the reception, treatment or care provided by hospitals or similar establishments, residential institutions and prisons;
 - (ii) work at docks or airports;
 - (iii) press, radio, television, cinematographic production, postal and telecommunications services and civil protection services;
 - (iv) gas, water and electricity production, transmission and distribution, household refuse collection and incineration;
 - (v) industries in which work cannot be interrupted on technical grounds;
 - (vi) research and development activities;
 - (vii) agriculture;
- (d) where there is a foreseeable surge of activity, as may be the case in relation to—
 - (i) agriculture;
 - (ii) tourism; and
 - (iii) postal services;
- (e) where the worker's activities are affected by—
 - (i) an occurrence due to unusual and unforeseeable circumstances, beyond the control of the worker's employer;
 - (ii) exceptional events, the consequences of which could not have been avoided despite the exercise of all due care by the employer; or
 - (iii) an accident or the imminent risk of an accident.

Shift workers

22.—(1) Subject to regulation 24—

- (a) regulation 10(1) does not apply in relation to a shift worker when he changes shift and cannot take a daily rest period between the end of one shift and the start of the next one;
- (b) paragraphs (1) and (2) of regulation 11 do not apply in relation to a shift worker when he changes shift and cannot take a weekly rest period between the end of one shift and the start of the next one; and
- (c) neither regulation 10(1) nor paragraphs (1) and (2) of regulation 11 apply to workers engaged in activities involving periods of work split up over the day, as may be the case for cleaning staff.

(2) For the purposes of this regulation—

“shift worker” means any worker whose work schedule is part of shift work; and

“shift work” means any method of organizing work in shifts whereby workers succeed each other at the same workstations according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks.

Collective and workforce agreements

23. A collective agreement or a workforce agreement may—

- (a) modify or exclude the application of regulations 6(1) to (3) and (7), 10(1), 11(1) and (2) and 12(1), and
- (b) for objective or technical reasons or reasons concerning the organization of work, modify the application of regulation 4(3) and (4) by the substitution, for each reference to 17 weeks, of a different period, being a period not exceeding 52 weeks,

in relation to particular workers or groups of workers.

Compensatory rest

24. Where the application of any provision of these Regulations is excluded by regulation 21 or 22, or is modified or excluded by means of a collective agreement or a workforce agreement under regulation 23(a), and a worker is accordingly required by his employer to work during a period which would otherwise be a rest period or rest break—

- (a) his employer shall wherever possible allow him to take an equivalent period of compensatory rest, and
- (b) in exceptional cases in which it is not possible, for objective reasons, to grant such a period of rest, his employer shall afford him such protection as may be appropriate in order to safeguard the worker's health and safety.

Workers in the armed forces

25.—(1) Regulation 9 does not apply in relation to a worker serving as a member of the armed forces.

(2) Regulations 10(2) and 11(3) do not apply in relation to a young worker serving as a member of the armed forces.

(3) In a case where a young worker is accordingly required to work during a period which would otherwise be a rest period, he shall be allowed an appropriate period of compensatory rest.

Young workers employed on ships

26. Regulations 7(2), 10(2), 11(3) and 12(4) do not apply in relation to a young worker whose employment is subject to regulation under section 55(2)(b) of the Merchant Shipping Act 1995(1).

Young workers: *force majeure*

27.—(1) Regulations 10(2) and 12(4) do not apply in relation to a young worker where his employer requires him to undertake work which no adult worker is available to perform and which—

- (a) is occasioned by either—
 - (i) an occurrence due to unusual and unforeseeable circumstances, beyond the employer's control, or
 - (ii) exceptional events, the consequences of which could not have been avoided despite the exercise of all due care by the employer;
- (b) is of a temporary nature; and
- (c) must be performed immediately.

(2) Where the application of regulation 10(2) or 12(4) is excluded by paragraph (1), and a young worker is accordingly required to work during a period which would otherwise be a rest period or rest break, his employer shall allow him to take an equivalent period of compensatory rest within the following three weeks.