
STATUTORY INSTRUMENTS

2003 No. 3049

The Merchant Shipping (Working Time:
Inland Waterways) Regulations 2003

PART 2

RIGHTS AND OBLIGATIONS CONCERNING WORKING TIME

General

^{F1}5.

Textual Amendments

F1 Reg. 5 omitted (5.1.2018) by virtue of [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **7(1)**

[^{F2}Maximum daily working time

6. Subject to regulation 15A, an employer shall ensure that a worker's working time shall not exceed 14 hours in any 24 hour period.

Textual Amendments

F2 Regs. 6-6D substituted for reg. 6 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **8**

Maximum weekly working time

6A. Subject to regulation 15A, an employer shall ensure that a worker's working time shall not exceed 84 hours in any seven day period.

Textual Amendments

F2 Regs. 6-6D substituted for reg. 6 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **8**

Maximum annual working time

6B.—(1) Subject to paragraph (2), an employer shall ensure that a worker's working time shall not exceed 2,304 hours within 12 months.

(2) Where the duration of a worker's employment relationship is less than 12 months, paragraph (1) shall not apply and a worker's maximum working time shall be that proportion of 2,304 hours that the employment relationship bears to 12 months.

Textual Amendments

F2 Regs. 6-6D substituted for reg. 6 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **8**

Maximum average weekly working time

6C.—(1) A worker's working time shall not exceed an average of 48 hours for any seven day period.

(2) For the purposes of this regulation, a worker's average working time for each seven days during the reference period shall be determined according to the following formula—

$$\frac{(A + B)}{C}$$

where—

A is the aggregate number of hours comprised in the worker's working time during the course of the reference period;

B is the aggregate number of hours comprised in the worker's working time during the course of the period beginning immediately after the end of the reference period and ending when the number of days in that subsequent period on which the worker has worked equals the number of excluded days during the reference period; and

C is the number of weeks in the reference period.

(3) In paragraph (2), "excluded days" means—

- (a) days comprised in any period of annual leave taken by the worker in exercise of the worker's entitlement under regulation 11 or 11A;
- (b) in so far as it is not comprised in any period of annual leave in accordance with subparagraph (a), any day which is a bank holiday in any part of the United Kingdom under the Banking and Financial Dealings Act 1971;
- (c) days comprised in any period of sick leave taken by the worker; and
- (d) any period of maternity, paternity, adoption or parental leave taken by the worker.

Textual Amendments

F2 Regs. 6-6D substituted for reg. 6 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **8**

Maximum average weekly working time where there are more working days than rest days

6D. Subject to regulation 15A, where, according to the work schedule, there are more working days than rest days, an employer shall ensure that a worker's average weekly working time shall not exceed 72 hours over a four month period.]

Textual Amendments

- F2** Regs. 6-6D substituted for reg. 6 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **8**

[^{F3}Health assessments

7.—(1) A worker who so requests shall be entitled to an annual free health assessment.

(2) During the assessment referred to in paragraph (1), particular attention shall be paid to identifying symptoms or conditions which could be as a result of work on board with minimum daily rest periods or rest days.

(3) No person shall disclose an assessment made for the purposes of this regulation to any person other than the worker to whom it relates, unless—

- (a) the worker has given consent in writing to the disclosure, or
- (b) the disclosure is confined to a statement that the assessment shows the worker to be fit.

Textual Amendments

- F3** Regs. 7-7D substituted for reg. 7 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **9**

Health assessments for night workers

7A.—(1) An employer shall—

- (a) not assign a worker to work which is to be undertaken during periods such that the worker will become a night worker unless—
 - (i) the employer has ensured that the worker will have the opportunity of a free health assessment before that worker takes up the assignment; or
 - (ii) the worker had a free health assessment before being assigned to work to be undertaken during such periods on an earlier occasion, and the employer has no reason to believe that the assessment is no longer valid, and
- (b) ensure that each night worker has the opportunity of a free health assessment at regular intervals of whatever duration may be appropriate in the night worker's case.

(2) Regulation 7(3) shall apply to free health assessments undertaken for the purposes of this regulation.

Textual Amendments

- F3** Regs. 7-7D substituted for reg. 7 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **9**

Transfer of night workers to day work

7B.—(1) Where—

- (a) a registered medical practitioner has advised an employer that a worker is suffering from health problems which the practitioner considers to be connected with the fact that the worker performs night work, and

Changes to legislation: There are currently no known outstanding effects for the *The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003, PART 2.* (See end of Document for details)

- (b) it is possible for the employer to transfer the worker to work—
- (i) to which the worker is suited, and
 - (ii) which is to be undertaken during periods such that the worker will cease to be a night worker,

the employer shall transfer the worker accordingly.

Textual Amendments

- F3** Regs. 7-7D substituted for reg. 7 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **9**

Length of night work

7C. An employer shall not require a worker to do more than 42 hours of night work during any seven day period.

Textual Amendments

- F3** Regs. 7-7D substituted for reg. 7 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **9**

Safety and health protection for night and shift workers

7D.—(1) Night workers and shift workers shall have safety and health protection appropriate to the nature of their work and such protection shall take account of guidance in section 8 of Merchant Shipping Notice MSN 1876(M).

(2) Protection and prevention services or facilities with regard to the safety and health of night and shift workers shall be equivalent to those applicable to other workers and be available at all times.]

Textual Amendments

- F3** Regs. 7-7D substituted for reg. 7 (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **9**

Pattern of work

8. Where the pattern according to which an employer organises work is such as to put the health and safety of a worker employed by him at risk, in particular because the work is monotonous [^{F4}or at a predetermined work-rate], the employer shall ensure that the worker is given adequate rest breaks.

Textual Amendments

- F4** Words in reg. 8 inserted (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **10**

Records

[^{F59}—(1) In the case of each worker, the employer shall keep records which are adequate to verify compliance with regulations 6, 6A, 6B, 6C(1), 6D, 7C, 10(1) and (3), 10B, 11(1) to (3), 11A, 14A(3) and 15A(2) to (4).

(2) Those records shall be available on board a ship until at least the end of the reference period.

(3) Those records shall contain the following minimum information—

- (a) the name of the ship;
- (b) the name of the worker;
- (c) the name of the master;
- (d) the date to which the record relates;
- (e) whether a day was a working day or a rest day; and
- (f) the beginning and end of the daily working or rest periods.

(4) The records shall be examined and endorsed jointly by the employer and the worker at an appropriate interval no later than by the end of the following month to which the records relate.

(5) Once endorsed, a copy of the endorsed records shall be given by the employer to the worker to whom they relate and that worker shall keep those records with them for one year.]

Textual Amendments

F5 Reg. 9 substituted (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **11**

Rest periods

10.—(1) ^{F6}... A worker is entitled to adequate rest.

(2) For the purpose of this regulation, “adequate rest” means that a worker has regular rest periods, the duration of which are expressed in units of time and which are sufficiently long and continuous to ensure that, as a result of fatigue or other irregular working patterns, he does not cause injury to himself, to fellow workers or to others and that he does not damage his health, either in the short term or in the longer term.

[^{F7}(3) The rest periods referred to in paragraph (2) shall not be less than—

- (a) 10 hours in each 24 hour period, of which at least six hours are uninterrupted; and
- (b) 84 hours in any seven day period.]

^{F8}(4)

Textual Amendments

F6 Words in reg. 10(1) omitted (5.1.2018) by virtue of [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **12(2)**

F7 Reg. 10(3) substituted (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **12(3)**

F8 Reg. 10(4) omitted (5.1.2018) by virtue of [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **12(4)**

[^{F9} Rest breaks

10A.—(1) A worker whose daily working time exceeds six hours is entitled to a rest break.

(2) The details of the rest break to which the worker is entitled under paragraph (1), including its duration and the terms on which it is granted, shall be in accordance with any provisions contained in a collective agreement or a workforce agreement.

(3) Subject to the provisions of any applicable collective agreement or workforce agreement, the rest break is an uninterrupted period of not less than 20 minutes and the worker is entitled to spend it away from the worker's workstation if the worker has one.

Textual Amendments

F9 Regs. 10A, 10B inserted (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **13**

Working days and rest days

10B.—(1) This regulation is subject to regulation 15A.

(2) An employer shall not require a worker to work more than 31 days consecutively.

(3) After a worker has worked a number of consecutive working days, the employer shall immediately allow the worker to take a minimum number of consecutive rest days calculated in accordance with paragraph (4).

(4) The minimum number of consecutive rest days which must immediately follow the consecutive working days shall be calculated as follows—

- (a) for the 1st to the 10th consecutive working day: 0.2 rest days per consecutive working day;
- (b) for the 11th to the 20th consecutive working day: 0.3 rest days per consecutive working day; and
- (c) for the 21st to the 31st consecutive working day: 0.4 days per consecutive working day.

(5) Partial days resulting from the calculation under paragraph (4) shall be added to the minimum number of consecutive rest days and granted only as full days.

(6) Paragraphs (7) and (8) apply where, according to the work schedule, the number of working days is no more than the number of rest days.

(7) In addition to the minimum number of immediate consecutive rest days calculated in accordance with paragraph (4), the employer shall allow the worker to take a number of rest days equal to the number of working days worked less the rest days the worker became immediately entitled to under paragraph (4).

(8) The worker shall be entitled to take the rest days referred to in paragraph (7) during the reference period.]

Textual Amendments

F9 Regs. 10A, 10B inserted (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **13**

Entitlement to annual leave and payment for leave

11.—(1) Subject to paragraph (2), a worker is entitled to four weeks' annual leave [^{F10}in each leave year] and to be paid in respect of any such leave at the rate of a week's pay in respect of each week of leave.

(2) In respect of a period of employment of less than one year, a worker is entitled to annual leave of a proportion of four weeks equal to the proportion the period of employment in question bears to one year; the proportion to be determined in days and any fraction of a day to be treated as a whole day.

(3) Leave to which a worker is entitled under this regulation—

- (a) may be taken in instalments;
- (b) may not be replaced by a payment in lieu, except where the worker's employment is terminated.

(4) Sections 221 to 224 of the Employment Rights Act 1996 ^{M1} shall apply for the purpose of determining the amount of a week's pay for the purposes of paragraph (1), subject to the modifications set out in paragraph (5).

(5) The provisions referred to in paragraph (4) shall apply as if—

- (a) references to the employee were references to the worker;
- (b) references to the employee's contract of employment were references to the worker's contract;
- (c) the calculation date were the first day of the period of leave in question; and
- (d) the references to sections 227 and 228 did not apply.

(6) A right to payment under paragraph (1) does not affect any right of a worker to remuneration under his contract ("contractual remuneration").

(7) Any contractual remuneration paid to a worker in respect of a period of leave goes towards discharging any liability of the employer to make payments under this regulation in respect of that period; and, conversely, any payment of remuneration under this regulation in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

Textual Amendments

F10 Words in reg. 11(1) inserted (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **14**

Marginal Citations

M1 1996 c. 18.

[^{F11}Entitlement to additional annual leave

11A.—(1) Subject to paragraph (4), a worker is entitled in each leave year to a period of leave in addition to the entitlement under regulation 11 ("additional leave") determined in accordance with paragraph (2) and to be paid for any such leave at the rate of a week's pay in respect of each week of leave.

(2) The period of additional leave to which a worker is entitled under paragraph (1) is—

- (a) in any leave year beginning on or after the coming into force of the Merchant Shipping (Working Time: Inland Waterways) (Amendment) Regulations 2017, 1.6 weeks;

(b) in any leave year beginning before the coming into force of the Merchant Shipping (Working Time: Inland Waterways) (Amendment) Regulations 2017, a proportion of 1.6 weeks equivalent to the proportion of the year beginning on the date those regulations come into force which would have elapsed at the end of that leave year.

(3) In respect of a period of employment of less than one year, a worker is entitled to additional annual leave of a proportion of 1.6 weeks equal to the proportion the period of employment in question bears to one year; the proportion to be determined in days and any fraction of a day to be treated as a whole day.

(4) The aggregate entitlement provided for in paragraph (2) and regulation 11(1) is subject to a maximum of 28 days.

(5) A worker's leave year begins for the purposes of this regulation on the same date as a worker's leave year begins for the purposes of regulation 11.

(6) Regulation 11(3) to (7) shall apply as if the references to paragraph (1) of that regulation were to paragraph (1) of this regulation.]

Textual Amendments

F11 Reg. 11A inserted (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **15**

Entitlements under other provisions

12. Where during any period a worker is entitled to a rest period or annual leave [^{F12}(including additional annual leave)] both under a provision of these Regulations and under a separate provision (including a provision of his contract), he may not exercise the two rights separately, but may, in taking a rest period or [^{F13}any] annual leave during that period, take advantage of whichever right is, in any particular respect, the more favourable.

Textual Amendments

F12 Words in reg. 12 inserted (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **16(2)**

F13 Word in reg. 12 inserted (5.1.2018) by [The Merchant Shipping \(Working Time Inland Waterways\) \(Amendment\) Regulations 2017 \(S.I. 2017/1149\)](#), regs. 1(2), **16(3)**

Changes to legislation:

There are currently no known outstanding effects for the The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003, PART 2.