

enterprise europe

WORKING TIME DIRECTIVE (93/104/EC)

BACKGROUND

The Working Time Directive was first adopted across the EU in 1993, however it was not implemented in the UK until 1998. The purpose of the directive is to protect workers' rights. A limit has been placed on the number of hours that should be worked each week. It also specifies the length of breaks to be taken, as well as legislating specifically for night-time working.

The Directive provides the following cover for workers including:

- Holiday entitlement
- The maximum average working week
- Rest breaks during the working day
- Rest periods between working days
- Hours when working at night

Workers aged 18 and over are entitled to:

- 4.8 weeks' holiday per annum
- Take a 20 minute rest break (if working for more than 6 hours)
- A right to 11 hours rest per day
- A right to a day off each week
- Work a maximum 48-hour average week*



WORKING HOURS

No worker aged 18 and over can be forced to work more than 48 hours a week. Young workers (under-18s) cannot work more than 40 hours a week. The average working week is normally calculated over 17 weeks. Working time includes travelling where it forms part of the job, working lunches and job-related training.

REST BREAKS

Workers are entitled to a minimum 20-minute break when working for more than 6 hours. The break should not be offered either at the beginning or end of a working day but should be managed effectively. There is also an entitlement to a minimum rest period of 11 hours between each working day. Workers should not be forced to work 6 out of 7 days, or 12 days in every 14.

HOLIDAY

Currently workers are entitled to 4.8 weeks (24 days) holiday rising to 5.6 weeks (28 days) from 1 April 2009. Holiday entitlement under these regulations is not additional to bank holidays. There is no statutory right for workers to take bank holidays as paid annual leave. If a worker is not otherwise paid for bank holidays then bank holidays may be taken as part of his/her annual leave.

YOUNG WORKERS

Younger workers between the ages of 16 and 17 are not subject to the opt-out clause and, can therefore not work for more than 40 hours per week.

These workers should:

- Take at least 30 minutes break if they work for more than 4 and a half hours
- Have 12 hours' rest between working days and, 2 days off each week
- Work no more than an 8 hour day and 40 hour week



NIGHT WORKERS

A night worker is someone who is defined as working at least 3 hours at night:

- On most days that he/she works.
- On a proportion of days worked (specified in a collective workforce agreement)
- Often enough that such working hours are classed as “normal”

Night-time working is classed as falling between 11pm and 6am although employers and their workforce can choose a different period of time. Working time is calculated over a reference period of 17 weeks.

Ordinarily young workers may not work at night between 10pm and 6am or between 11pm and 7am. However there are certain exceptions where young workers are allowed to work through the night if they work in the following sectors:

- Hospitals or similar establishments

Or in any of the following activities:

- Cultural
- Artistic
- Sporting
- Advertising

OPT-OUT CLAUSE

The British Government negotiated an opt-out clause to allow workers to work longer than the 48-hour limit if they wish to do so.

The opt-out from the maximum working week was secured by the UK in 1993 when the first Working Time Directive was passed by the European Commission. No worker can be forced to work for more than 48 hours; the opt-out does not remove this protection. A written agreement must be in place and signed by the employee. An employee can cancel the opt-out agreement at any time but the employer must be provided with at least 7 days' notice.

However on December 18th 2008 the European Parliament voted in favour of ending the UK's opt-out. If the UK is forced to end the opt-out then the law will come into force in 2012.

The Directive will now go to a Conciliation Committee where a compromise will be sought between the European Council and the European Parliament. It is expected that the Council will produce a new position by the end of February. The Conciliation Committee will meet some time in March. However an agreement between the European Parliament and the Council has to exist for any changes to be made to the existing Working Time Directive.

In other words if an agreement is not reached using the conciliation process, the Directive, as it stands including the present opt-outs will remain.



For more information on the Working Time Directive or any other EC policy-related topics don't hesitate to contact **Enterprise Europe Network**:

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USEFUL WEB LINKS

Further information on the Working Time Directive can be obtained from the following web links:

<http://www.berr.gov.uk/whatwedo/employment/employment-legislation/working-time-regs/>

http://www.direct.gov.uk/en/Employment/Employees/WorkingHoursAndTimeOff/DG_10029426

<http://www.businesslink.gov.uk/bdotg/action/layer?topicId=1073858926>

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