

THE WORKING WEEK

Looking Forward to Friday!



EU Directive 93/104/EC was published on 23rd November 1993, subsequently amended by the European Parliament in Directive 2000/34/EC on 22nd June 2000.

The aim: To adopt minimum requirements covering certain aspects of the organisation of working time connected with working health and safety.

EU Directives 93/104/EC and 2000/34/EC

Like all EU Directives, the purpose is to ensure that member states modify, or introduce legislation to give compatibility through the EU.

In this case the measures are to ensure that workers enjoy:

- The minimum daily rest period of eleven consecutive hours per period of twenty-four hours;
- The minimum period of one rest day on average immediately following the daily rest period in every seven-day period;
- For a daily period of work of more than six hours, a break as defined by the provisions of collective agreements, agreements concluded between social partners or national legislation;
- Not less than four weeks annual paid holiday, a qualification for which shall be determined by reference to national practice/legislation;
- An average weekly working period of not more than forty-eight hours, including the overtime for each seven-day period.

Normal hours of work for night workers must not exceed an average of eight hours in any twenty-four hour period. Workers shall be entitled to a free health check-up before being employed on night work and at regular intervals thereafter. Anyone suffering from health problems connected with night work must be transferred wherever possible to day work.

SI 1998 No. 1833 (as amended)

In the United Kingdom, Regulations were introduced under provisions of the Employment Rights Act 1996, as SI 1998 No. 1833 (The Working Time Regulations 1998), subsequently amended.

48 hour week limit

Regulation 4 introduces a limit of forty-eight hours working time, including overtime for each seven days. The working time is related to a 'reference period' and the Regulations give a formula for making the assessment. (Trainee doctors are treated differently and have a longer limit of fifty-two hours until 2011).

Opt-out provision

Regulation 5 provides an 'opt-out' provision whereby the worker can agree in writing to dispense with the forty-eight hour limit.

Opting-out is often a condition of employment set by many firms, but requires the employer to maintain up-to-date records to:

<p>Record keeping</p> <p>Rest Periods</p> <p>Calculating Annual Leave</p> <p>Part-time workers</p>	<ol style="list-style-type: none"> 1) Identify each of the workers who has agreed that the limit (of forty-eight hours) should not apply in their case; 2) Set out any terms under which the worker agrees that the limit should not apply; and 3) Specify the number of hours worked for the employer during each reference period since the agreement came into effect. <p>The employer must also allow inspection of the records on request by any inspector appointed by the HSE or other relevant authority and also provide the inspector with information in cases where a worker has agreed that the limit should not apply. These records must be kept for two years following the date on which they were made.</p> <p>Daily Rest: An adult worker is entitled to a rest period of not less than eleven consecutive hours in each twenty-four hour period (twelve consecutive hours for a 'young worker' - i.e. a person younger than 18 years old).</p> <p>Weekly Rest Period: An adult worker is entitled to the alternative of an uninterrupted rest period of not less than twenty-four hours in each seven-day period or two uninterrupted rest periods each of not less than twenty-four hours in each fourteen-day period or one uninterrupted rest period of not less than forty-eight hours in each fourteen-day period. In the case of a young worker, the rest period must be not less than forty-eight hours in each seven-day period.</p> <p>Rest Breaks: Where an adult worker's daily working time is more than six hours, there is entitlement to an uninterrupted rest period of not less than twenty minutes, away from the work station if required. In the case of a young worker the rest break extends to thirty minutes.</p> <p>Annual leave entitlement: The legal minimum is 5.6 weeks for full-time employees working five days each week.</p> <p>Part-time workers are entitled to a pro-rata allowance of the time normally worked. Therefore, two days worked each week gives an entitlement of $2/5 \times 5.6 \text{ weeks} \times 5 \text{ days} = 11.2 \text{ days}$.</p> <p>As in most legislation, there are exceptions and further details should be obtained by reference to the documents identified below.</p>
<p>Useful Guidance</p>	<p>Useful References:</p> <p>http://www.opsi.gov.uk/si/si1998/19981833.htm</p> <p>http://www.direct.gov.uk/en/Employment/Employees/TimeOffandholidays/DG_10034642</p> <p>http://www.direct.gov.uk/en/Employment/Employees/WorkingHoursandTimeOff/DG_10029246</p> <p style="text-align: right;">© R.H. Hulls: March 2010</p>