



This Guidance Note is not a complete statement of the law. It is intended for general information only and is not a substitute for seeking specialist advice in particular circumstances. No responsibility for loss occasioned as a result of a person acting or refraining from acting in reliance on it, is accepted by the authors or by NYFVO.

Working Time Regulations

(As amended by Working Time (Amendment) Regulations 2001)

- 1** The basic rights and protections that the Regulations provide are:
 - a limit of an average of 48 hours a week which a worker can be required to work (though workers can choose to work more if they want to).
 - a limit of an average of 8 hours work in 24 which night-workers can be required to work.
 - a right for night workers to receive free health assessments.
 - a right to 11 hours rest a day.
 - a right to a day off each week.
 - a right to an in-work rest break of 20 minutes if the working day is longer than six hours.
 - a right to four weeks paid leave per (full) year (including paid bank/public holidays).

- 2** The Regulations also provide different and enhanced rights for adolescent (under 18) workers:
 - a right to free health and capacities assessments for night work.
 - a right to 12 hours rest a day.
 - a right to two days off each week.
 - a right to an in-work rest break of 20 minutes if the working day is longer than four and a half hours.

- 3** The rights will apply to all workers except the self employed and those working in transport sectors, sea fishing or other work at sea and doctors in training.

The Regulations provide flexibility in how the rights are applied. In certain circumstances the rights may be modified. Furthermore, workers and employers may modify some rights by agreement to allow them to arrange their working time in a manner best suited to their situation.

The limits (the weekly working time, night work limits and health assessments for night workers) will be enforced by the health and safety enforcing authorities, i.e., the Health and Safety Executive and Local Authority Environmental Health Officers. HSE is responsible for enforcing the working time limits where they apply in factories, building sites, mines, farms, fairgrounds, quarries, chemical plants, nuclear installations, schools and hospitals. Local Authority Officers are responsible for retailing, offices, hotels and catering, sports, leisure and consumer services.

The entitlements (the weekly and daily rest, rest breaks and paid annual leave) are enforced through the Employment Tribunals. Workers whose entitlements are denied, or who suffer detriment as a result of asserting their rights, may make a complaint to an Employment Tribunal.

5 Holidays

Every worker in the U.K. is now entitled to paid holidays (or accrued holiday pay on termination). However, recognising that casual, seasonal and other short-term workers are engaged to do a specific job of work and that it would be disruptive to have those workers asking for holiday leave within a short time of starting work, the Regulations state that, during the first year of employment, a worker can, at any given time, only take that amount of holiday that has been accrued in the period since he/she commenced employment up to that point. The Regulations point out that if the amount of leave that has accrued in a particular case includes a fraction of a day other than a half-day, that fraction must be treated as a half-day if it is less than a half day, and as a whole day if it is more than a half-day. For example;

- A full-time worker (working a five day week) who is in his/her eighth month of employment will have built up 13.5 days' leave, i.e., the annual entitlement of 20 days (four weeks times five days a week) multiplied by 8/12 equals 13.33 days, which is rounded up to 13.5 days.
- A full-time worker (working a six-day week) who is in his/her fifth month of employment will have built up 10 days' leave, i.e., the annual entitlement of 24 days (four weeks times six days a week) multiplied by 5/12 equals 10 days.
- A part-timer who works three days a week and is still in his/her first month of employment will have built up one days' leave, i.e. the annual entitlement of 12 days (four weeks times three days a week) multiplied by 1/12 equals one day.

There are two points to be made here. Although the Regulations do not say so in as many words, logic dictates that rounding-up to the nearest half-day

should only occur when a worker actually takes the whole (or part) of his/her accrued holiday entitlement. Furthermore, the rounded-up element may then lawfully be carried forward and deducted from the leave remaining. The second point is that there should be no rounding-up when calculating a worker's entitlement to accrued holiday pay on the termination of his/her employment; in which event the amount of (rounded-up) leave actually taken before termination should be deducted from the worker's entitlement to leave (calculated, if need be, to two or three decimal places) at a time termination occurs.

It should also be emphasised that the Regulations have not altered or undermined an employer's existing qualified right either to specify a day (or days) on which workers may (or may not) take their annual holidays or to defer a worker's holidays to a more convenient time.

Full details and guidance can be found on the DTI website.

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