

# Working Time

Specific requirements concerning hours of work are contained in the Working Time Regulations 1998. The HSE is responsible for enforcing the provisions relating to maximum working weeks, night work, health assessments, patterns of work and record keeping. If employers fail to observe entitlement to breaks, daily rest, weekly rest, annual leave or compensatory rest, then employees have immediate recourse to an industrial tribunal.

## Maximum Working Week

Employers have a duty to ensure that their workers do not work more than an average of 48 hours in each seven day period, as calculated over successive 17 week reference periods. Working time is "any time when a worker is working, at his employer's disposal and carrying out his activities or duties". This includes training, time on union business and safety reps activities.

Workers may work more than 48 hours in a seven day period if they have a written agreement with their employer for the additional hours. But the GPMU is totally opposed to opt-outs. GPMU branches and chapels have been instructed to make sure no members sign away their rights. The regulations are all about health and safety: it would be crazy to opt out of their protection.

## Night Work

Employers have a duty to ensure that night workers' normal working hours do not exceed more than an average of eight hours in each 24 hour period, as calculated over successive 17 week reference periods.

Where the night work involves special hazards, strenuous physical work or mental strain, employers must ensure that their workers do not work more than eight hours in any 24 hour period during which night work is performed — this restriction does not allow for averaging out night work hours, it is an absolute maximum limit. The work will be taken to involve special hazards, etc if it has been identified as such in any collective or workforce agreements, or if the risk assessment required under MHSW Regs, identifies it as posing a significant risk to the workers' health and safety.

This does not prevent 12 hour shifts being worked, providing an agreement is made between your employer and the GPMU to cover them.

## Health Assessments

Employers may not assign adult workers to night work until they have been given a free health assessment. The health assessment should be repeated at regular intervals, probably annually, after the night work has started. Previous health assessments may be acceptable provided that they are relevant and continue to be valid.

Young persons may not be assigned to work during the "restricted period", ie between 22.00 and 06.00, unless their health and capabilities have been assessed.

## What is a health assessment?

The Department of Trade and Industry has offered some guidance on health assessments.

"The purpose of the health assessment is to determine whether a worker is fit to carry out the night work to which they are assigned. Under health and safety law, an employer should already have conducted an assessment of the health and safety risks to which the worker is exposed. This entails the identification of hazards in the workplace and an assessment of the extent to which these might harm the worker, followed by appropriate action to control and reduce exposure.

While workplace hazards are unlikely to change with night work, risks arising from them might nonetheless be greater at night, particularly where individuals are suffering from, or susceptible to, certain medical conditions. It is likely that only a very few workers will be permanently unfit to work at night. There are few if any health factors that absolutely rule out night work in every case. However, a number of medical conditions may in some cases be made worse by night work, for example:

- diabetes, particularly where treatment with insulin injections on a strict timetable is required
- some heart and circulatory disorders, particularly where factors such as physical stamina are affected
- stomach or intestinal disorders, such as ulcers, and conditions where the timing of a meal is particularly important
- medical conditions affecting sleep
- some chronic chest disorders where night-time symptoms may be particularly troublesome
- other medical conditions requiring regular medication on a strict timetable

(NOTE: this list is not exhaustive. It is also important to note that the effects of conditions such as these on fitness for night work will often only be temporary)

There is no prescribed procedure for conducting a health assessment. As a minimum, employers could construct a screening questionnaire for workers to complete before beginning night work. This would need to be suitably adapted for regular updating and should be compiled with guidance from a qualified health care professional such as a doctor or nurse familiar with the nature of the employer's business and the issues associated with working at night. As a guide, the questionnaire should explain its purpose, the nature of the work to which the individual is being assigned and ask whether the worker suffers from any medical condition or is undergoing any medical treatment such as those listed above that might affect their fitness to work at night.

Screening of responses to such questionnaires should be conducted by people trained to interpret the information. This will enable them to identify those individuals with conditions that may be affected by night work. Where answers to the screening questionnaires raise any doubts about an individual's fitness to work at night, the individual should be referred to a suitably-qualified health care professional for further assessment and for an opinion as to

whether the worker is fit to carry out the work to which they are to be assigned. It should be remembered that individuals might be reluctant to disclose personal medical information especially where they are unsure of its relevance to night work or where it might prejudice their continued employment.

Health assessments can be provided through a variety of means, for example an employer's own occupational health service, by employers arranging for workers to consult their own GPs, or by employers buying in suitable external provision, such as from a local occupational health service or GP practice, to carry out assessments on the employer's behalf.

When requesting health assessments, employers should make clear to health care professionals that the assessments are to be conducted within the context of these Regulations. Providing an explanation of the type of night work (duration, shift pattern etc.) to which the worker is to be assigned will help the health care professional to reach an informed decision about the fitness of an individual to carry out particular night work on a case-by-case basis.

Two types of information arise from the health assessment. A simple fitness-for-work statement should be provided by the health care professional to the employer. Clinical information, however, must remain confidential and can only be released to an employer (or any other third party) with the worker's written consent. Screening questionnaires containing non-clinical information can be stored with an individual's personnel record."

Workers are entitled to be transferred to day work if a registered medical practitioner informs the employer that the worker is suffering from health problems connected with the night work, and the employer can provide work for which the worker is suited and which can be performed outside of night hours.

## Patterns of Work

If the health and safety of workers is put at risk by virtue of the work being monotonous, or set at a pre-determined work rate, employers are required to ensure that the workers receive adequate rest breaks.

## Records

Employers are required to keep records to show that the restrictions on the maximum working week and night work, and health assessments are being complied with. These records must be retained for two years from the date on which they were made.

## Daily Rest

Adult workers are entitled to a daily rest period of at least 11 consecutive hours in each 24 hour period during which they are at work.

Young persons are entitled to a daily rest period of at least 12 consecutive hours in each 24 hour period during which they are at work. This may be interrupted in situations where the work activities are split up over the day, or are of short duration.

## Weekly Rest

Adult workers are entitled to an uninterrupted weekly rest period of at least 24 hours in each seven day period during which they are at work. As determined by the employer, this can be taken as two uninterrupted rest periods of at least 24 hours in each 14 day period, or one uninterrupted rest period of at least 48 hours in each such 14 day period. This minimum weekly rest period must not include any of the daily rest period unless it is justified by objective, technical or organisational reasons.

Young persons are entitled to a weekly rest period of at least 48 hours in each seven day period during which they are at work. This weekly rest period may be interrupted where the work activities are split up over the day, or are of short duration, or where there are technical or organisational reasons, but may not be reduced to less than 36 consecutive hours.

## Rest Breaks

Adult workers are entitled to a rest break if their working time is more than six hours. The duration and any conditions may be determined by reference to a collective agreement, although where no such agreements are in place then the Regulations allow for an uninterrupted period of at least 20 minutes, which may be taken away from the worker's workstation.

Young persons are entitled to a rest break if their working time is more than four and a half hours. The rest break should be at least 30 minutes, consecutive if possible, which again may be taken away from their workstations.

## Annual Leave

Workers are initially entitled to at least three weeks annual leave, raising to four weeks for leave years beginning after 23rd November 1999. GPMU members get a better deal than that, but around 2.5 million other workers will get paid annual holidays. Part-time workers now have the same entitlement pro rata as full-time workers.

## Unmeasured Working Time

The provisions relating to maximum weekly working time, night work, daily and weekly rest periods, rest breaks and annual leave do not apply to workers where their working time is not measured or predetermined, or can be determined by the worker themselves, due to the specific nature of the work activities being undertaken. This applies to managing executives or similar officers with autonomous decision taking powers, family workers, or religious officers conducting church ceremonies, etc.

## Action Points

1. Use your safety reps rights to make sure members benefit from the full protection of these Regs.
2. Make sure night workers have free health assessments.
3. Make sure rest breaks are provided for.
4. Liaise with other Chapel reps about all the consequences of the Regs.
5. Contact your local Branch if the employer attempts to negotiate opt-outs or variations from the basic Regs.