

briefingpages

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■ HEALTH AND SAFETY

1. WORKING TIME – RIGHTS EXTENDED TO TRANSPORT AND OFFSHORE SECTORS

Before 1 August 2003, all workers in the transport and offshore sectors were excluded from claiming any rights or protection under the Working Time Regulations 1998. The basic rights and protections that the 1998 Regulations provide are:

- a limit of an average 48-hour week (but workers can currently choose to work more if they want to)
- a limit of an average 8 hours' work in 24 for night workers
- free health assessments for night workers
- 11 hours' rest a day
- at least one day off each week
- an in-house rest break if the working day exceeds 6 hours
- 4 weeks' paid leave a year.

Since August 2003, the position has changed. As a result, more workers are now covered by the 1998 Regulations.

In general, non-mobile workers in road, sea, inland waterways and lake transport, railway and offshore sectors are now covered in full by the 1998 Regulations. Mobile workers in the road transport sector receive more limited protection under these Regulations, depending on whether they are subject to European drivers' hours rules.

The Road Transport (Working Time) Regulations 2005 are also due to come into force on 23 March 2005. On broad terms, anyone who drives or works in a vehicle required by EU rules to have a tachograph will be affected. Under the 2005 Regulations, working time for mobile workers must not exceed:

- an average 48-hour week
- 60 hours in any single week
- 10 hours in any 24-hour period, if they are working at night.

Workers covered by these Regulations cannot opt-out from the average 48-hour weekly limit. Generally, any sick leave or holiday entitlement under the 1998 Regulations must not be used to bring down a worker's average weekly working time.

SUMMARY OF KEY RIGHTS

ROAD

The 1998 Regulations apply to all non-mobile workers. Mobile workers not covered by EU drivers' hours rules are entitled to an average 48-hour working week, 4 weeks' paid annual leave, health assessments if working nights and adequate rest.

Mobile workers covered by the EU drivers' hours rules can claim paid annual leave and health assessments for night workers. The 2005 Regulations set out new rules on driving hours and rest periods.

RAIL

The 1998 Regulations apply to all rail workers. However, entitlements to daily rest, rest breaks, weekly rest and limits on the length of night work do not apply to workers whose activities are intermittent and who spend their time working on trains or whose work is linked to maintaining timetables.

AIR

The 1998 Regulations apply to all non-mobile workers. Mobile workers are covered by the Aviation Directive in terms of annual limits on working time, health and safety protection, and monthly and yearly rest days.

SEA TRANSPORT

The 1998 Regulations apply in full to non-mobile workers and any mobile workers not covered by the Merchant Shipping (Hours of Work) Regulations 2002.

INLAND WATERWAY AND LAKE TRANSPORT

The 1998 Regulations apply in full to non-mobile workers. The rights of mobile workers will be covered by new regulations to be brought into force by the Department of Transport at a later date.

SEA FISHING

The 1998 Regulations apply in full to non-mobile workers. The rights of mobile workers will be covered by new regulations to be brought into force by the Department of Transport at a later date.

OTHER WORK AT SEA

The 1998 Regulations apply to all workers in this sector, including offshore workers in the oil and gas industry. However, the offshore employers have to date refused to honour their obligations under the 1998 Regulations. In particular, the offshore employers are refusing to permit offshore workers to take 4 weeks' leave. Amicus has brought test cases against the offshore employers and we will report in detail on this legal challenge in a future edition.

2. WORKERS MEMORIAL DAY, 28 APRIL 2005; "REMEMBER THE DEAD; FIGHT FOR THE LIVING"

The 20th Century contained two World Wars lasting a total of 10 years. An estimated 58 million people died during those conflicts and the Nation rightly remembers the War Dead on November 11th each year. The 21st Century is just five years old and already in excess of 10 million people world-wide have been killed as they have gone about their daily work or as a direct result of it.

In those same five years an estimated 6200 people have been killed at work in the United Kingdom, covering every kind of industrial and commercial activity: Agriculture, Forestry, Fishing, Construction, Electrical Installation, Service (including

the repair of motor vehicles), Manufacturing, Recycling of Waste and Scrap, Extractive and Utility Supply, Emergency Services, Road Haulage drivers and Sales Representatives. More details of the circumstances of some of these terrible deaths can be found on our website.

The Amicus Clergy and Church Workers' Section, on behalf of the whole Trade Union Movement, urges everyone to observe Workers' Memorial Day on April 28th each year, with special services on that day or on the nearest weekly day of prayer in churches, chapels, synagogues, mosques and temples. Clergy wishing to obtain more information to help in planning Workers' Memorial Day Services can find a wealth of material at www.tonybell.co.uk and on our website, where you will also find details of events planned on or around the day. Members without internet access can request copies of any of the above documents to be emailed or posted to you by contacting Chris O'Leary, Research Department, 020 7939 7016, Chris.O'Leary@amicustheunion.org.

Amicus has the following resources available for campaigning around Workers' Memorial Day: A3 posters, two different colours and designs; A4 posters; lapel stickers, 10 per sheet; WMD edition of Hazards Magazine, purple forget-me-knot ribbons. To order any of these, please contact Roger Bates, Education Department Hayes Court, West Common Road, Bromley BR2 7AU, Tel: 0208 315 8299, Fax: 0208 315 8524, Email: roger.bates@amicustheunion.org

3. TACKLING WORK RELATED VIOLENCE IN SCOTLAND

The Scottish Executive has published a report with recommendations on how to tackle work related violence, as part of the Executive's anti-social behaviour strategy.

Entitled "Protecting Public Service Workers: When The Customer isn't Right", the report is the result of the Executive working in partnership with the STUC, trades unions and representative and trade bodies. For the partnership an STUC lay member was seconded to the Executive to develop recommendations, in consultation with a steering group of representatives from the Executive, the STUC, employers and professional bodies, including the HSE.

Steps already being taken to address the problem include training in preventing and handling abuse, developing a model reporting system and means of helping employers meet their legal obligations to minimise the risks of verbal or physical violence towards staff. This activity has been supported by a hard-hitting media campaign, which aims to raise public awareness of the issue, to protect all public-facing workers, not just those in the public sector. The full report can be downloaded at www.scotland.gov.uk/library5/justice/ppsw.pdf

4. NEW PUBLICATIONS

The following new publications are available on our website at www.amicustheunion.org/main.asp?page=38 or in print form by calling Despatch Dept on 020 8462 7755.

Risk Assessment, An Amicus guide

The Civil Aviation (Working Time) Regulations, an Amicus guide

The UK Working Time Regulations, an Amicus guide

Public and Bank Holidays in the UK and the Republic of Ireland, an Amicus guide

CHANGES TO PENSION INCREASES

The Pensions Act 2004 alters the prescribed basis of increases in pensions in payment in both final salary (DB) and money purchase (DC) pension schemes.

FINAL SALARY SCHEMES

The Act, which will come into force from April may mean a reduction in the way pensions increase each year once they are in payment. If employers decide to implement the changes as detailed in the legislation then pension scheme members could see the statutory increase to their pensions in payment halve for the pension they accrue in the future.

Currently defined benefit pension schemes have to apply what is known as Limited Price Indexation, (LPI), increases to pension benefits that have been earned since 1997. Before 1997 there were no legislative requirements for pensions to increase each year after they came into payment, although many schemes had Rules that provided for increases to be paid on a discretionary basis. This meant that the Trustees of each scheme would decide every year if their scheme was able to afford to increase the level of those pensions already in payment. If the Trustees decided against paying a discretionary increase then pensions continued to be paid at the same level.

The obvious problem with only requiring pension schemes to pay increases to benefits on a discretionary basis, or not at all in the case of some schemes, was that it caused financial hardship for pensioners. As inflation rose each year any pensioner not receiving an increase to their income suffered a cut in their real income. Over time that reduction in purchasing power became increasingly meaningful.

As a result, the Pensions Act of 1995 introduced a requirement for all pensions earned after 1997 to have a guaranteed LPI increase applied to them. An LPI increase requires the pension in payment to be increased in line with the lower of the annual increase in inflation or 5 per cent. Unfortunately the legislation was not retrospective and therefore many members' pensions are now split into two parts when calculating what increases are liable. The part earned prior to 1997 will still be liable for any discretionary increases but not liable for an LPI increase. The part earned after 1997 is liable for an LPI increase and the scheme may also apply a discretionary increase if it is able.

This differentiation of liability for pension increases has come to the fore recently with a number of employers looking to reduce the cost of running a final salary pension scheme. Whilst they have no choice but to fund additional liabilities created by LPI increases they have, in many cases, refused to fund discretionary increases which may have traditionally been paid.

The change in the law that is to be implemented from April 2005 has come from the Government as part of an effort to reduce cost burdens on schemes where they feel the liability has become unrealistic. As a result of a low inflation environment the law is to be changed to allow schemes to provide LPI increases not to a maximum of 5 per cent but to a maximum of 2.5 per cent.

Through making this change the future funding requirements will be based on an LPI liability with a maximum lower than was previously the case meaning a reduction in the funding requirements. Speculation has centred on a potential average reduction to the required employer contribution of between 1 and 2 per cent per year.

This change means that pension increases may now have to be calculated in three parts. The pre 1997 element, the 1997 to 2005 element and the post 2005 element. It should be remembered though that the change in legislation is not compulsory. Employers will not be obligated to make the change to LPI increases for the schemes they sponsor – the legislation simply enables them to do so if they wish.

MONEY PURCHASE PENSIONS

Currently pension annuities provided from employer defined contribution schemes have to be secured on a basis which provides for LPI increases to all of the pension earned after April 1997. For personal pensions only the part of the pension that is made up of Protected Rights has to be secured by an annuity with LPI increases. Protected Rights is the part of the pension, for those that are contracted out of the State Second Pension, (S2P), that is meant to replace the benefits that would have been earned from the State.

The requirement for LPI means that the starting pension is substantially lower than it would have been because of the cost of providing annual increase.

As from April 2005 these requirements are abolished for all pensions coming into payment after that date.

1. 2005 COMPENSATION LIMITS

The annual increase in Employment Tribunal limits apply with effect from 1st February 2005.

- The limit on a week's pay rises to £280 per week and the maximum unfair dismissal basic award will increase to £8,400.
- The minimum basic award which is payable in dismissal cases involving trade union membership and activities, carrying out duties as a health and safety representative, employee representative or trustee of an occupational pension scheme, will increase to £3,800.
- The unfair dismissal compensatory award will increase to £56,800 and the additional award for failure to comply with a reinstatement or re-engagement order which is based upon a week's pay will increase to £14,560 or 52 Weeks' pay.
- The maximum amount of a redundancy payment based upon age length of service and the limit on a week's pay will rise to £8,400.
- Recoverable debts payable upon insolvency of the employer based upon a week's pay will increase as follows;

- arrears of pay, to a maximum of eight weeks	£2,240
- the amount of the statutory minimum notice pay	£3,360
- arrears of holiday pay to a maximum of six weeks	£1,680
- any basic award of compensation for unfair dismissal	£8,400
- The award payable to a worker for unjustifiable exclusion or expulsion from a union, or unjustifiable discipline will increase to £65,200
- The award payable to a worker for refusal of employment or services of an employment agency on trade union grounds will increase to £56,800
- The award payable to a worker denied the right to be accompanied by a trade union official will increase to £560

Please note that the increases set out above have are given effect by the indexation provisions of the Employment Rights (Increase of Limits) Order 2004 SI 2004/2989. They apply where the relevant dates for the entitlement claimed occurs on or after 1st February 2005.

2. PERSONAL INJURY CLAIMS IN THE REPUBLIC OF IRELAND

Members in the Republic of Ireland will be aware that the majority of their personal injury claims are now dealt with by the Personal Injuries Assessment Board (PIAB). It is a scheme which does not allow for solicitor representation and gives damages on a fixed fee basis. The Union has been very concerned about this scheme as we believe it does not deliver best value and access to justice for members. We are also very concerned that the UK Government may seek in the long run to adopt a similar scheme.

The PIAB scheme has recently been judicially reviewed. The judgement sets out the value of legal representation, pointing out that it exists for the "maintenance of fairness between the strong and the weak". It speaks of the importance of the injured person having access to a lawyer "to guarantee a quality of arms". It criticises the complexity of the PIAB procedure.

The Republic of Ireland Law Society participated in the case and, welcoming the judgement, its Director General said, "The judgement shows that PIAB cannot be trusted to act fairly towards accident victims. Legal representation is necessary to guarantee the rights of victims of accidents against the interests of big business and the insurance industry that PIAB was designed to protect.

"The judgement exposes the imbalance and anti-claimant bias of the PIAB. It would be a very foolish claimant who would not use a solicitor in dealing with the PIAB."

The PIAB scheme will not compensate for solicitors' costs so the vast majority of injured people cannot have a solicitor at all. Amicus is leading the way in allowing members to have a solicitor to assist them in their claim (even if PIAB will not write directly to the solicitor). The Union will pay legal fees and disbursements for its members. If the member has a family member who has been injured then we can arrange for the family member to be represented by a solicitor for a fixed fee of 500 but the family member will also have to pay the cost of any medical reports or other disbursements.

NEGOTIATING INFORMATION

INFLATION FIGURES

2005	RPI (Jan 1987=100)	RPI	RPIX	CPI
Jan	188.9	3.2	2.1	1.6

2004	RPI (Jan 1987=100)	RPI	RPIX	CPI
Jan	183.1	2.6	2.4	1.4
Feb	183.8	2.5	2.3	1.3
Mar	184.6	2.6	2.1	1.1
Apr	185.7	2.5	2.0	1.2
May	186.5	2.8	2.3	1.5
June	186.8	3.0	2.3	1.6
July	186.8	3.0	2.2	1.4
Aug	187.4	3.2	2.2	1.3
Sept	188.1	3.1	1.9	1.1
Oct	188.6	3.3	2.1	1.2
Nov	189.0	3.4	2.2	1.5
Dec	189.9	3.5	2.5	1.6

2003	RPI (Jan 1987=100)	RPI	RPIX	CPI
Jan	178.4	2.9	2.7	1.4
Feb	179.3	3.2	3.0	1.6
Mar	179.9	3.1	3.0	1.6
Apr	181.2	3.1	3.0	1.5
May	181.5	3.0	2.9	1.2
June	181.3	2.9	2.8	1.1
July	181.3	3.1	2.9	1.3
Aug	181.6	2.9	2.9	1.4
Sept	182.5	2.8	2.8	1.4
Oct	182.6	2.6	2.7	1.4
Nov	182.7	2.5	2.5	1.3
Dec	183.5	2.8	2.6	1.3

2002	RPI (Jan 1987=100)	RPI	RPIX	CPI
Jan	173.3	1.3	2.6	1.6
Feb	173.8	1.0	2.2	1.5
Mar	174.5	1.3	2.3	1.5
April	175.7	1.5	2.3	1.3
May	176.2	1.1	1.8	0.8
June	176.2	1.0	1.5	0.6

UNDERSTANDING INFLATION

The inflation rate is calculated from the prices of a range of different goods and services selected to represent average spending patterns in the UK. The Office for National Statistics monitors changes in these prices each month, and uses this to work out an average increase for the year. The different items in the 'basket' of goods and services are given different weights, so that things we spend more on, such as housing, motoring and food, are given more importance.

BASE LENDING RATE FOR FEBRUARY 2005 IS 4.75 %

AVERAGE EARNINGS – INCLUDING BONUSES

2004

2004	Whole Economy			Manufacturing			Public Sector		
	Average Earnings Index	Single Month	3 Month Average	Average Earnings Index	Single Month	3 Month Average	Average Earnings Index	Single Month	3 Month Average
Dec	118.5	4.4	4.3	117.8	3.8	3.4	122.2	4.4	4.7
Nov	109.8	4.1	3.8	109.4	4.1	3.8	109.4	4.1	3.8
Oct	117.8	4.2	4.1	116.6	3.4	3.3	121.7	4.8	4.6
Sept	117.2	3.9	3.8	116.1	3.2	3.4	121.2	4.4	4.2
Aug	108.6	3.6	3.7	108.8	3.8	3.7	109.1	2.9	3.4
July	116.2	3.3	3.8	116.2	3.9	4.1	119.7	3.6	4.2
June	116.5	4.3	4.4	116.0	4.1	4.4	119.8	4.5	4.4
May	116.0	4.2	4.4	115.9	4.4	4.1	119.0	4.6	4.3
April	115.8	4.6	4.3	115.5	4.8	3.9	118.6	4.1	4.3
Mar	115.7	4.3	5.2	116.1	3.2	3.5	118.2	4.3	4.3
Feb	114.3	3.9	4.9	114.7	3.6	3.5	117.8	4.4	4.3
Jan	117.1	7.3	4.7	114.0	3.6	3.5	117.1	4.1	4.2

2003

	Whole Economy			Manufacturing			Public Sector		
	Average Earnings Index	Single Month	3 Month Average	Average Earnings Index	Single Month	3 Month Average	Average Earnings Index	Single Month	3 Month Average
Dec	113.2	3.4	3.4	113.6	3.4	3.4	116.9	4.3	4.4
Nov	113.7	3.3	3.6	113.3	3.5	3.4	116.4	4.2	4.8
Oct	113.0	3.6	3.6	112.8	3.2	3.2	116.1	4.7	5.4
Sept	112.8	3.7	3.6	112.5	3.5	3.2	116.1	5.5	5.6
Aug	112.4	3.5	3.4	111.9	2.9	3.1	115.6	6.0	5.5
July	112.3	3.6	3.4	111.8	3.2	3.1	115.4	5.3	5.1
June	111.7	3.2	3.0	111.4	3.1	3.0	114.7	5.3	5.0

The three-month average figures are the changes in the average seasonally adjusted index values for the last 3 months compared with the same period a year ago.

Full-time average earnings by occupation

	£pw		£pw
All workers	516.50	Admin & Secretarial	355.20
All male	569.60	Skilled/craft	434.90
All female	429.90	Services	296.30
Managers	773.60	Sales	298.10
Professionals	687.30	Operatives	390.60
Associate Professionals	550.90	Other manual jobs	314.50

The table above gives estimates of full-time average weekly earnings by occupation. It is based the figures from the New Earnings Survey 2003, uprated by the AEI.

The National Minimum Wage

The National Minimum Wage Regulations 1999 (Amendment) (No 2) Regulations 2004 was introduced on 1 October 2004.

- The minimum wage for 16-17 year olds is £3 per hour
- The adult worker's rate rises by 7.8% from £4.50 per hour to £4.85 per hour
- The youth rate, for 18 to 21 year olds, rises by 7.9% from £3.80 per hour to £4.10 per hour

The regulations can be viewed on the HMSO website www.hmso.gov.uk

For more information on inflation go to
www.statistics.gov.uk or www.incomesdata.co.uk