

## Working Time Guide

### Overview

*Composite Legal Expenses Insurance provides advice to thousands of businesses and individuals each year through its legal advice helpline. The vast majority of calls to the helpline come from businesses seeking help on employment related matters.*

*Our expert lawyers have used their years of experience dealing with these matters to create this guide for you to use as a reference tool.*

*The guide has been condensed as much as possible to make sure you only get an overview of the area, for that reason it should not be viewed as comprehensive or as a substitute for specific legal advice.*

*If you have the benefit of a legal expenses policy with us, then the guide can be used in addition to the advice we provide and you should contact our advisors for advice in relation to any specific situations.*

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# WORKING TIME

## Working Time

The **Working Time Regulations 1998** (“The Regulations”) were introduced as a result of the **European Working Time Directive 93/104/EC**. The regulations are in place to protect the health and safety of workers by placing restrictions on the amount of time people can work, the regulations provide rules relating to:

- The 48-hour working week
- Night working
- Daily rest periods
- Daily rest breaks
- Weekly rest periods
- Holiday entitlements

Breaches, by an employer, of the rules relating to the 48-hour working week and night working can lead to criminal prosecution by the Health and Safety Executive. The remaining rules are simply individual entitlements. Therefore, if employees want to enforce these entitlements they would need to make a complaint to an employment tribunal.

### Workers

The Regulations give protection to “workers”, this means they apply to and provide protection to a wider group of people than “employees”. For more information in relation to the distinction between “employees” and “workers” see our **Employment Status Guide**.

### The 48-hour working week

Workers should not work on average more than 48 hours a week. Employers have an obligation to monitor staff and keep records to ensure that the weekly average is not exceeded. The average is usually calculated over a period of 17 weeks.

Workers can choose to waive this right under an individual opt-out agreement with their employer. The agreement must be in writing and the worker must be able to terminate the agreement on notice (this notice period must not exceed three months).

### Night workers

The Regulations limit the amount of time night workers can spend on a shift, require employers to offer regular health assessments for night workers and can require employers to transfer night workers to day work if that is advised by a doctor.

A night worker is any person who works for at least three hours during “night time” (generally 11pm to 6am) on the majority of their shifts, or does so “as a normal course”.

The definition is slightly more complicated in The Regulations and case law has suggested that three hours of night work per shift only has to be a regular feature of a worker’s pattern of working time.

The following limits apply to night workers:

- An eight-hour average limit on normal hours of work per day
- An eight-hour actual limit for each day where the work involves a special hazard or heavy physical or mental strain

## Rest periods and breaks

Under The Regulations workers are generally entitled to:

- A daily rest period of 11 hours per day
- A weekly rest period of 24 hours per week
- A rest break of 20 minutes when a day's working time is more than six hours
- "Adequate" rest breaks for workers carrying out monotonous work, where this can put the worker's health and safety at risk

## Holidays

Under The Regulations workers have right to a minimum of 5.6 weeks paid leave per year. A full time employee working 5 days per week will therefore be entitled to 28 days paid leave per year (5 x 5.6 = 28). This entitlement is inclusive of bank holidays, if applicable.

As above, the entitlement in days is always calculated by multiplying the number of days in a worker's normal week by 5.6 and rounding up to the nearest half day.

Generally paid leave must be taken within the leave year and payments in lieu of leave are only allowed on termination of employment.

## Exclusions and exceptions

All of the above rights are subject to certain exclusions and exceptions, there are also special provisions that apply in certain circumstances. For more information, contact our Legal Advice Helpline.