

## Working time rules

### 1 . Understanding the Working Time Regulations

The law on working time (The Working Time Regulations 1998) sets rules for:

- the maximum weekly working hours, and how someone can work more hours if they choose
- rest during the working day, week and year – [find out more about the right to rest](#)
- young workers' maximum working hours and rest breaks
- night work
- special arrangements when there's an emergency or if someone is not able to take their rest
- holiday entitlement – [find out more about holiday](#)

This is to protect everyone's health, safety and wellbeing, and it applies to:

- employees
- workers
- agency workers
- apprentices
- casual and seasonal workers
- doctors in training
- zero-hours workers

The Working Time Regulations 1998 is the law that applies the EU Working Time Directive to England, Scotland and Wales.

### What counts as working time

By law, working time is when someone is:

- at the employer's 'disposal' – this means the employer can tell them what they can or cannot do in that time
- carrying out work activities, duties and training

Working time usually includes time spent:

- travelling to a customer or client, for example if the job is a travelling salesperson
- training that someone needs to do the job
- being on call while at the place of work, for example a hotel night manager who needs to be available in case guests need them

### What does not count as working time

Working time usually does not include:

- routine travel to and from home and the workplace if the person has a set workplace, for example a regular commute to an office or factory
- rest breaks when no work is done
- travelling outside of normal working hours, for example to get to a conference
- training that is not work related, for example a course the person has chosen to organise and do for themselves

Find out more about:

- [rest breaks](#)
- [working time when someone has to travel as part of their job](#)

## Keeping records of working hours

An employer does not need to keep records of all daily working hours.

However they must keep records to prove that:

- employees are not working more than the [48-hour weekly maximum](#) – this is unless they have an opt out agreement
- they are not breaking limits for [night working](#)
- they have offered regular health assessments for night workers
- [young workers](#) are not working during a restricted period

Employers must keep these records for 2 years from the date they were made.

Having clear and easy to understand records can help employers:

- prevent disputes
- protect the health, safety and wellbeing of their employees

## If an employer does not follow the law

If an employee thinks their employer is not following the law for working time, they could first try resolving it by:

- [talking with their employer informally](#)
- [raising a grievance – making a formal complaint to their employer](#)

If the employer still does not resolve it, depending on the issue the employee may be able to:

- make a claim to an employment tribunal
- report it to the Health and Safety Executive (HSE) or their local authority

## When an employee can claim to an employment tribunal

An employee can make a claim to an employment tribunal if their employer has not followed the law on any of the following:

- rest breaks during the working day of at least 20 minutes, if the employee is expected to work more than 6 hours during the day
- daily rest of 11 hours between working days
- weekly rest of 24 hours any 7-day period, or 48 hours in a 14-day period
- holiday entitlement

They may also be able to claim if they have experienced detriment or been dismissed because they raised a concern about working time.

Detriment means someone experiences one or both of the following:

- being treated worse than before
- having their situation made worse

Examples of detriment could be:

- their employer reduces their hours
- they experience [bullying](#)
- they experience [harassment](#)
- their employer turns down their training requests without good reason
- they are overlooked for promotions or development opportunities

## What an employee can report

An employee can report it if their employer does not follow the law on any of the following:

- the 48-hour maximum weekly working time limit
- night work limits and night work special conditions
- transfers of workers from night to day work
- compensatory rest for night work
- health assessments for night work for adults and young workers
- record-keeping requirements

It depends on the type of workplace whether the employee should report it to either:

- the Health and Safety Executive, for example for building sites, factories, hospitals, schools
- the local authority, for example for hairdressers, health clubs, offices, shops

## Get more advice and support

[Contact the Acas helpline](#) to:

- talk through any questions about working time
- report an employer

You can also [use the pay and work rights complaint form on GOV.UK](#).

## 2. The 48-hour weekly maximum

By law (The Working Time Regulations 1998), employees and workers must not work more than 48 hours a week on average. This is usually averaged over 17 weeks.

Limiting the hours people work is important for everyone's health, safety and wellbeing.

The 48-hour weekly limit applies unless the person:

- has 'opted out' of the maximum limit – this means they agree to work more hours
- does a [job with exceptions under the law](#)

There are different rules on [working hours for young workers](#).

## How to calculate average weekly working hours

1. Add the total hours the employee worked in a 17-week period.
2. Divide this total by 17.

If someone has worked for fewer than 17 weeks, use the number of weeks worked.

### When the calculation period can be longer than 17 weeks

There are some exceptions to using 17 weeks to calculate average weekly working hours.

#### When there's a collective agreement

The 17-week period can be extended to a maximum of 52 weeks by a collective agreement. In this case, you need to divide the total by the relevant number of weeks in the agreement.

#### Junior doctors

The average weekly working hours for junior doctors are calculated over 26 weeks rather than 17.

#### Off-shore workers

The average weekly working hours for off-shore workers are calculated over 52 weeks rather than 17.

## Opting out of the 48-hour weekly limit

An employee can choose to work more than an average of 48 hours a week. They do this by signing an 'opt-out agreement'.

This is a written agreement and should be separate from the employment contract.

#### [Use our 48-hour opt-out agreement template](#)

The employee does not have to agree to opting out of the 48-hour weekly limit. The employer must not cause the employee detriment because they do not opt out.

Detriment means someone experiences one or both of the following:

- being treated worse than before
- having their situation made worse

For example:

- their employer reduces their hours without good reason and without consulting with the employee
- they experience [bullying](#)
- they experience [harassment](#)
- their employer turns down their training requests without good reason
- they are overlooked for promotions or development opportunities

### If an employee changes their mind about opting out

An employee can cancel an opt-out agreement at any time. They must give their employer notice if they want to do this.

This notice period depends on what's written in the opt-out agreement but can never be more than 3 months. If the agreement says nothing about it, then by law the notice period is 7 days.

## Pay for going over the weekly limit

By law, employers do not have to offer a higher amount of pay than normal when someone works more hours because they've opted out.

Employers can choose to offer [overtime pay](#). If so, it must be written in an agreement or the employment contract.

The employer must make sure the person is still getting at least [national minimum wage](#) for the average number of hours they work.

## If someone has not opted out and works extra hours

If an employee has not opted out, they can work more than 48 hours in a week. If they do, they must work fewer hours across the calculation reference period to even out their average weekly hours.

### Example of evening out average working hours

Sam usually works 48 hours a week. They have not opted out of the weekly limit.

This week, Sam's manager asks them to work 55 hours (7 hours more than usual). The request is because the business is short staffed. Sam agrees to work the extra hours.

To keep to the law, the manager must make sure Sam's weekly average is reduced back down to 48 hours. So they agree Sam will work 41 hours (7 hours less than usual) the following week.

### Agreeing extra working hours

If an employer will require an employee to work extra hours, it should be written in the employment contract.

If it's not in the contract or there's not an agreement about working extra hours already in place, the employer should get agreement with the employee. They could do this by:

- explaining why the extra hours are necessary
- giving as much notice as possible
- explaining how their time can be adjusted to make sure their average hours do not exceed the 48-hour weekly limit
- setting out how the employer will protect their wellbeing and give them enough rest

## If an employee has more than one job

If an employee is going to be working more than 48 hours on average across all their jobs, each employer should discuss the option of opting out with the employee.

The employee does not have to opt out of the 48-hour weekly limit and the employers must not cause them detriment because they do not opt out.

If the employee does not want to opt out, the employers should talk with them about their reasons. The employers should also do a health and safety risk assessment to check the effects of the employee working more than 48 hours a week.

The employers should talk through the results of the risk assessment with the employee and they could agree on:

- a reduction in hours
- how any risks can be solved or prevented

### Example of agreeing working hours across 2 jobs

Tracey works an average of 30 hours a week in a factory. Tracey tells the factory manager that they have started an extra job working 20 hours a week in a cafe.

The factory manager works out that Tracey risks working more than 48 hours each week. They talk about all options and any health and safety risks, such as using machinery in the factory and being tired. They discuss the options for Tracey to opt out or reduce their overall working hours.

Tracey is enjoying both jobs and the extra money they bring in, so chooses to opt out of the 48-hour weekly limit.

Tracey agrees with both employers to regular check-ins to make sure that Tracey is not tired and at risk of using the machines in the factory.

### If an employee thinks they're working too many hours

If someone thinks they're working more than 48 hours on average and they have not opted out of the weekly limit, they should first raise it with their employer.

If you have any questions about working time, you can [contact the Acas helpline](#).

## 3. Being on call

'On-call' or 'standby' employees are those expected to be available for work outside of their regular hours, sometimes at short notice.

### What counts as working time when on call

Time spent on call can count as working time if the employee is doing work that their employer requires them to do under their employment contract.

This might be at the workplace or at a different location, such as working from their own home or at a client's property.

It does not usually count as working time if the employee is away from the workplace and can spend the time in any way they choose.

It's more likely to count as working time the more control the employer has over the employee's:

- activities
- location
- time

### Example of working time when someone's on call

Jay is an IT technician and did an on-call shift. They were at home and could do what they wanted, but an urgent call from a client came through and Jay had to spend 2 hours working on the client's issue.

Jay's employer needs to add the time Jay spent working on the client's issue when adding up Jay's maximum working hours and rest breaks for that week.

## Rest breaks when on call

On-call employees are entitled to the same [rest breaks](#) as everyone else if they need to be available for work during this time. For example, they're checking emails or responding to phone calls.

An employee might not be entitled to the legal rest breaks if they're free to spend the on-call time as they choose.

## Staying or sleeping in the workplace

In some jobs, employers might need employees and workers to stay or sleep at the workplace. This is called 'sleep-in time'.

Sleep-in time usually counts as working time, even if the person spends it asleep. This is because the employee or worker is required by their employer to be at the workplace.

It can also be working time when an employee is not required to sleep at the workplace, but still has significant restrictions on where they must be and when.

### Example of sleep-in time and working time rights

Kris is a care worker at a large residential care home. Their employer provides rooms in the care home for employees to sleep in during their sleep-in shifts.

It's in Kris's contract that during their sleep-in shifts they must:

- stay in the care home at all times
- do 3-hourly checks throughout the shift
- respond to anything that residents need

When not doing their assigned tasks, Kris can sleep, watch TV, and use the kitchen facilities.

For these reasons, Kris's sleep-in shift is likely to count as working time. This means they need to get the right breaks, rest periods and maximum weekly working hours.

### Sleeping-in and rest breaks

Employees who have sleep-in time are still entitled to take their legal rest breaks.

If there's a genuine reason why someone cannot take a break, such as an emergency at work, the employer must provide another way for the employee to take the break.

## Pay for being on call or sleeping at the workplace

It should be written in the employment contract whether the employee or worker gets paid for time they spend:

- on call and at home
- staying or sleeping at their workplace

They must be paid at least the [national minimum wage](#) on average during their pay reference period for any hours they work. This includes time they spend awake and working.

The pay reference period is the period of time someone's pay covers. For example, if someone is paid monthly, their pay reference period is 1 month.

## If someone is not getting the right rest or pay

If someone is not getting the rest or pay they're entitled to, they can:

- [talk with their employer](#)
- [raise a grievance](#) – make a formal complaint to their employer

## Contact the Acas helpline

If you have any questions about working time rules for employees who are on call or sleep in, [contact the Acas helpline](#).

## 4. Night workers

A night worker is someone who usually works at least 3 hours a day during 'night time'.

By law (The Working Time Regulations 1998), night time is the period between 11pm and 6am.

Some people might call night time 'unsociable hours'.

An organisation can agree a different period of time for night time as long as it:

- is at least 7 hours long
- includes the 5 hours between 12am and 5am

## The maximum hours for night workers

Night workers must not work more than 8 hours in a 24-hour period on average. Workers cannot opt out of this limit, including for overtime.

Night workers' average hours are calculated over one of the following reference periods:

- rolling periods of 17 weeks
- successive 17-week periods, if agreed and written in a relevant agreement
- if the worker has worked for fewer than 17 weeks, the period that has passed since they started work

## If the work involves special hazards or heavy strain

Night workers must not work more than 8 hours in a 24-hour period if the work involves:

- special hazards
- heavy physical or mental strain

This means they must not use an average when checking their working hours.

## How employers must protect night workers

Because of the possible effect on health, safety and wellbeing, employers must offer:



- anyone a health assessment before they become a night worker
- repeat assessments for as long as might be reasonable in the circumstances, for example after a change of night to day shift

Although the worker does not have to accept the offer of a health assessment, it's good practice for employers to continue to regularly check with them about their health, safety and wellbeing.

If an employee's health professional says night work is causing them health problems, the employer should offer suitable alternative work where possible.

There are extra restrictions on [night working for young workers](#).

## Keeping records of night workers' hours

By law, employers must keep records of night workers' hours to show they either:

- do not work more than an average of 8 hours in any 24-hour period
- never work for more than 8 hours in any 24-hour period if the work involves special hazards, or heavy physical or mental strain

## Contact the Acas helpline

If you have any questions about night working time, [contact the Acas helpline](#).

## 5. If someone travels for their job

In some cases, travel time to and from work counts as working time.

### If an employee has a fixed place of work

If an employee has a fixed place of work (such as an office they go to every day), their regular travel time to and from work does not usually count as working time.

If an employer wants to count this travel time as working time, they can.

Travel time while at work will usually count as working time, for example when travelling:

- from one client to the next
- from an office to a meeting elsewhere

[Find out about the maximum hours an employee can work in a week](#)

### If the employee has no fixed place of work

Some jobs have no fixed place of work. These are often jobs where the employee spends a lot of time visiting customers or clients. People who do this work are sometimes known as 'peripatetic workers'.

These types of jobs can include:

- care workers
- plumbers and other tradespeople
- teachers who work at different schools over the working day

- travelling salespeople

Travel between home and work is likely to count as working time for peripatetic workers. This is because during this time, the person is classed as doing work for their employer – for example, the employer may change or add tasks.

## Pay when travel time counts as working time

When travel time counts as working time, the pay an employee gets depends on the terms of the employment contract.

When calculating pay the employer must follow the law on the National Minimum Wage. It includes different rules on how working time affects minimum wage calculations.

You can:

- [use the minimum wage calculator on GOV.UK](#)
- [find out more about how minimum wage is calculated on GOV.UK](#)

## 6. Jobs with different rules

Under the law (The Working Time Regulations 1998), some jobs can have different arrangements for working hours and rest in some circumstances. This is because of the type of work they do.

The employees and workers this applies to are:

- those in jobs that need 'continuity of service or production' – where they need to keep working for a longer period of time, for example in agriculture, hospitals, the media, passenger transport services, postal services, prisons, public utilities, research and development, residential institutions, and work that cannot be interrupted for technical reasons
- those in jobs with seasonal rushes, such as tourism and agriculture
- security guards, caretakers and similar
- shift workers changing their shift pattern
- those who have to travel regularly between different workplaces, for example travelling salespeople

When the job needs it, the rules they're exempt from are:

- the 48-hour weekly limit
- length of night work and health assessments
- rest breaks
- daily rest
- weekly rest

If people in these types of jobs have to work through their normal rest, they must still get 'compensatory rest'. This means they must get the same amount of rest at another time.

Employers must still protect the health, safety and wellbeing of people doing this type of work.

## Adult domestic workers

Adult domestic workers in a private household (sometimes called 'adult domestic servants') have the right to:

- a 20-minute break if working 6 hours or more

- daily rest of 11 hours between finishing and starting work
- 24 hours rest in 7 days or 48 hours in 14 days
- holiday entitlement

## Jobs exempt from the rule on compensatory rest

Some jobs are exempt from the rule on compensatory rest when their work is needed because of a very serious incident. This would usually be because they need to protect the life and the health and safety of the community.

For these reasons, the following jobs could be exempt:

- the armed forces
- the police
- specific activities in civil protection

## Jobs not covered by the law on working time

The law on working time does not apply to:

- managing and senior executives and those who have the ability to make organisational decisions
- those who are self-employed

This is because they have control over their own working time. They must still have appropriate rest to protect everyone's health and safety.

## Jobs with their own working time rules

These types of work are covered by their own working time laws:

- air transport jobs that are mobile – see the [Civil Aviation Authority](#)
- lorry, bus and coach driving and crew – see the [Driver and Vehicle Standards Agency \(DVSA\)](#)
- river and lake transport – see the [Maritime and Coastguard Agency](#)
- seafaring – see [working time regulations for seafarers on GOV.UK](#)

## If you're not sure about your working time rights

To check your working time rights, you can:

- check your employment contract
- talk to your employer
- talk to your trade union representative, if you're a member
- [contact the Acas helpline](#)

## 7. Agreeing a change – relevant agreements

Certain changes are allowed under The Working Time Regulations to better suit an organisation's needs.

The changes can be made through a 'relevant agreement'. A relevant agreement can be one of the following:

- a workforce agreement, which is made between the employer and employee representatives
- a collective agreement, which is made between a recognised trade union and the employer
- an agreement that can be legally enforced between an employee and their employer, for example an employment contract

A workforce agreement cannot be made if there's already a collective agreement on the same working time issue.

## Working time rules that can be changed by a relevant agreement

A collective or workforce agreement can only be used to make certain changes or exclude certain rights under The Working Time Regulations.

If an employer excludes a right, they must continue to protect employees' health, safety and wellbeing.

A collective or workforce agreement can change or exclude the following working time rights:

- the 20-minute rest break for those who expect to work more than 6 hours in a day
- the daily rest of 11 hours in 24 hours
- the weekly rest of 24 hours in every 7 days or 48 hours in every 14 days
- the 17-week reference period for night work
- the average hours for night workers working with special hazards

The reference period for working out the 48-hour average maximum working week can be changed from 17 weeks to 52 weeks. A reference period is the length of time used when working out average working hours.

An agreement cannot make employees opt out of the 48-hour working week.

An employer cannot make any changes to [young workers' rights](#).

## Reaching a workforce agreement

A workforce agreement can cover the whole workforce or a specific group of employees and workers.

It is made between an employer and employees' 'elected representatives'.

### Electing employee representatives

To get employee representatives in place, the employer needs to set up an election process.

Employee representatives can be elected specifically for making the workforce agreement. The employer should provide training if needed.

So that the election process is fair, the employer must make sure that:

- employees who stand for election are affected by the workforce agreement when the election takes place
- affected employees are not stopped from standing for election
- affected employees are given the right to vote for employee representatives
- affected employees can vote for as many candidates as there are representatives to be elected – or as many candidates as there are representatives in their group, if there'll be representatives for particular groups of employees
- votes can be made secretly and counted accurately
- there are sufficient employee representatives elected to represent the interests of all affected employees

- there are enough representatives so that if one is not able to attend a meeting, for example because they're off sick, there will still be representation

If nobody wants to be elected as an employee representative, the employer should consult with the affected employees directly. This should be a last resort.

## Making a workforce agreement valid

A workforce agreement on working time must be:

- in writing
- in place for a specific period that's not longer than 5 years
- clear on who it applies to, for example the whole workforce or a specific group of employees
- sent to everyone it affects with clear guidance explaining it

Before it comes into effect it must also be signed by either:

- everyone it affects
- all the elected representatives, if it was agreed through representation

If there are fewer than 20 employees in the organisation then either:

- a majority of the employees must sign
- all the representatives must sign