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STATUTORY INSTRUMENTS

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**1998 No. 1833**

**The Working Time Regulations 1998**

**PART II**

**RIGHTS AND OBLIGATIONS CONCERNING WORKING TIME**

**General**

**3.**—<sup>[F1]</sup>(1) The provisions of this Part have effect subject to the exceptions provided for in Part III of these Regulations.

<sup>[F2]</sup>(2) Where, in this Part, separate provision is made as respects the same matter in relation to workers generally and to young workers, the provision relating to workers generally applies only to adult workers and those young workers to whom, by virtue of any exception in Part 3, the provision relating to young workers does not apply.]

**Textual Amendments**

- F1** Reg. 3(1): reg. 3 renumbered as reg. 3(1) (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **4(a)**
- F2** Reg. 3(2) inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **4(b)**

**Maximum weekly working time**

**4.**—(1) <sup>[F3]</sup>Unless his employer has first obtained the worker's agreement in writing to perform such work], a worker's working time, including overtime, in any reference period which is applicable in his case shall not exceed an average of 48 hours for each seven days.

(2) An employer shall take all reasonable steps, in keeping with the need to protect the health and safety of workers, to ensure that the limit specified in paragraph (1) is complied with in the case of each worker employed by him in relation to whom it applies <sup>[F4]</sup>and shall keep up-to-date records of all workers who carry out work to which it does not apply by reason of the fact that the employer has obtained the worker's agreement as mentioned in paragraph (1)].

(3) Subject to paragraphs (4) and (5) and any agreement under regulation 23(b), the reference periods which apply in the case of a worker are—

- (a) where a relevant agreement provides for the application of this regulation in relation to successive periods of 17 weeks, each such period, or
- (b) in any other case, any period of 17 weeks in the course of his employment.

(4) Where a worker has worked for his employer for less than 17 weeks, the reference period applicable in his case is the period that has elapsed since he started work for his employer.

Status: Point in time view as at 15/06/2022.

Changes to legislation: There are currently no known outstanding effects for the The Working Time Regulations 1998, PART II. (See end of Document for details)

(5) Paragraphs (3) and (4) shall apply to a worker who is excluded from the scope of certain provisions of these Regulations by regulation 21 as if for each reference to 17 weeks there were substituted a reference to 26 weeks.

(6) For the purposes of this regulation, a worker’s average working time for each seven days during a reference period shall be determined according to the formula—

$$\frac{A + B}{C}$$

where—A is the aggregate number of hours comprised in the worker’s working time during the course of the reference period;

B is the aggregate number of hours comprised in his working time during the course of the period beginning immediately after the end of the reference period and ending when the number of days in that subsequent period on which he has worked equals the number of excluded days during the reference period; and

C is the number of weeks in the reference period.

(7) In paragraph (6), “excluded days” means days comprised in—

- (a) any period of annual leave taken by the worker in exercise of his entitlement under regulation 13;
- (b) any period of sick leave taken by the worker;
- (c) any period of maternity [<sup>F5</sup>paternity, adoption or parental] leave taken by the worker; and
- (d) any period in respect of which the limit specified in paragraph (1) did not apply in relation to the worker [<sup>F6</sup>by reason of the fact that the employer has obtained the worker’s agreement as mentioned in paragraph (1)].

**Textual Amendments**

**F3** Words in reg. 4(1) substituted (17.12.1999) by [The Working Time Regulations 1999 \(S.I. 1999/3372\)](#), regs. 1(1), **3(1)(a)**

**F4** Words in reg. 4(2) added (17.12.1999) by [The Working Time Regulations 1999 \(S.I. 1999/3372\)](#), regs. 1(1), **3(1)(b)**

**F5** Words in reg. 4(7)(c) inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **5**

**F6** Words in reg. 4(7)(d) substituted (17.12.1999) by [The Working Time Regulations 1999 \(S.I. 1999/3372\)](#), regs. 1(1), **3(1)(c)**

**Agreement to exclude the maximum**

5.—<sup>F7</sup>(1) .....

(2) An agreement for the purposes of [<sup>F8</sup>regulation 4]—

- (a) may either relate to a specified period or apply indefinitely; and
- (b) subject to any provision in the agreement for a different period of notice, shall be terminable by the worker by giving not less than seven days’ notice to his employer in writing.

(3) Where an agreement for the purposes of [<sup>F8</sup>regulation 4] makes provision for the termination of the agreement after a period of notice, the notice period provided for shall not exceed three months.

<sup>F9</sup>(4) .....

**Textual Amendments**

- F7** Reg. 5(1) omitted (17.12.1999) by virtue of [The Working Time Regulations 1999 \(S.I. 1999/3372\)](#), regs. 1(1), **3(2)(a)**
- F8** Words in reg. 5(2)(3) substituted (17.12.1999) by [The Working Time Regulations 1999 \(S.I. 1999/3372\)](#), regs. 1(1), **3(2)(b)**
- F9** Reg. 5(4) omitted (17.12.1999) by virtue of [The Working Time Regulations 1999 \(S.I. 1999/3372\)](#), regs. 1(1), **3(2)(a)**

**[<sup>F10</sup>Maximum working time for young workers**

**5A.—(1)** A young worker’s working time shall not exceed—

- (a) eight hours a day, or
- (b) 40 hours a week.

(2) If, on any day, or, as the case may be, during any week, a young worker is employed by more than one employer, his working time shall be determined for the purpose of paragraph (1) by aggregating the number of hours worked by him for each employer.

(3) For the purposes of paragraphs (1) and (2), a week starts at midnight between Sunday and Monday.

(4) An employer shall take all reasonable steps, in keeping with the need to protect the health and safety of workers, to ensure that the limits specified in paragraph (1) are complied with in the case of each worker employed by him in relation to whom they apply.]

**Textual Amendments**

- F10** Reg. 5A inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **6**

**Length of night work**

**6.—(1)** A night worker’s normal hours of work in any reference period which is applicable in his case shall not exceed an average of eight hours for each 24 hours.

(2) An employer shall take all reasonable steps, in keeping with the need to protect the health and safety of workers, to ensure that the limit specified in paragraph (1) is complied with in the case of each night worker employed by him.

(3) The reference periods which apply in the case of a night worker are—

- (a) where a relevant agreement provides for the application of this regulation in relation to successive periods of 17 weeks, each such period, or
- (b) in any other case, any period of 17 weeks in the course of his employment.

(4) Where a worker has worked for his employer for less than 17 weeks, the reference period applicable in his case is the period that has elapsed since he started work for his employer.

(5) For the purposes of this regulation, a night worker’s average normal hours of work for each 24 hours during a reference period shall be determined according to the formula—

*Status: Point in time view as at 15/06/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Working Time Regulations 1998, PART II. (See end of Document for details)*

$$\frac{A}{B - C}$$

where—A is the number of hours during the reference period which are normal working hours for that worker;

B is the number of days during the reference period, and

C is the total number of hours during the reference period comprised in rest periods spent by the worker in pursuance of his entitlement under regulation 11, divided by 24.

<sup>F11</sup>(6) .....

(7) An employer shall ensure that no night worker employed by him whose work involves special hazards or heavy physical or mental strain works for more than eight hours in any 24-hour period during which the night worker performs night work.

(8) For the purposes of paragraph (7), the work of a night worker shall be regarded as involving special hazards or heavy physical or mental strain if—

(a) it is identified as such in—

- (i) a collective agreement, or
- (ii) a workforce agreement,

which takes account of the specific effects and hazards of night work, or

(b) it is recognised in a risk assessment made by the employer under [<sup>F12</sup>regulation 3 of the Management of Health and Safety at Work Regulations 1999] as involving a significant risk to the health or safety of workers employed by him.

**Textual Amendments**

**F11** Reg. 6(6) omitted (6.4.2003) by virtue of [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, 7

**F12** Words in reg. 6(8)(b) substituted (29.12.1999) by [The Management of Health and Safety at Work Regulations 1999 \(S.I. 1999/3242\)](#), reg. 1(1), **Sch. 2** (with regs. 2(1), 30)

**[<sup>F13</sup>Night work by young workers**

**6A.** An employer shall ensure that no young worker employed by him works during the restricted period.]

**Textual Amendments**

**F13** Reg. 6A inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, 8

**Health assessment and transfer of night workers to day work**

7.—(1) An employer—

(a) shall not assign an adult worker to work which is to be undertaken during periods such that the worker will become a night worker unless—

- (i) the employer has ensured that the worker will have the opportunity of a free health assessment before he takes up the assignment; or

- (ii) the worker had a health assessment before being assigned to work to be undertaken during such periods on an earlier occasion, and the employer has no reason to believe that that assessment is no longer valid, and
    - (b) shall ensure that each night worker employed by him has the opportunity of a free health assessment at regular intervals of whatever duration may be appropriate in his case.
  - (2) Subject to paragraph (4), an employer—
    - (a) shall not assign a young worker to work during [<sup>F14</sup>the restricted period] unless—
      - (i) the employer has ensured that the young worker will have the opportunity of a free assessment of his health and capacities before he takes up the assignment; or
      - (ii) the young worker had an assessment of his health and capacities before being assigned to work during the restricted period on an earlier occasion, and the employer has no reason to believe that that assessment is no longer valid; and
    - (b) shall ensure that each young worker employed by him and assigned to work during the restricted period has the opportunity of a free assessment of his health and capacities at regular intervals of whatever duration may be appropriate in his case.
  - (3) For the purposes of paragraphs (1) and (2), an assessment is free if it is at no cost to the worker to whom it relates.
  - (4) The requirements in paragraph (2) do not apply in a case where the work a young worker is assigned to do is of an exceptional nature.
  - (5) No person shall disclose an assessment made for the purposes of this regulation to any person other than the worker to whom it relates, unless—
    - (a) the worker has given his consent in writing to the disclosure, or
    - (b) the disclosure is confined to a statement that the assessment shows the worker to be fit—
      - (i) in a case where paragraph (1)(a)(i) or (2)(a)(i) applies, to take up an assignment, or
      - (ii) in a case where paragraph (1)(b) or (2)(b) applies, to continue to undertake an assignment.
  - (6) Where—
    - (a) a registered medical practitioner has advised an employer that a worker employed by the employer is suffering from health problems which the practitioner considers to be connected with the fact that the worker performs night work, and
    - (b) it is possible for the employer to transfer the worker to work—
      - (i) to which the worker is suited, and
      - (ii) which is to be undertaken during periods such that the worker will cease to be a night worker,
- the employer shall transfer the worker accordingly.

#### Textual Amendments

**F14** Words in reg. 7(2) substituted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, 9

*Status: Point in time view as at 15/06/2022.*

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## Pattern of work

8. Where the pattern according to which an employer organizes work is such as to put the health and safety of a worker employed by him at risk, in particular because the work is monotonous or the work-rate is predetermined, the employer shall ensure that the worker is given adequate rest breaks.

## Records

9. An employer shall—

- (a) keep records which are adequate to show whether the limits specified in regulations 4(1) [F15, 5A(1)] and 6(1) and (7) and the requirements in regulations [F16 6A and] 7(1) and (2) are being complied with in the case of each worker employed by him in relation to whom they apply; and
- (b) retain such records for two years from the date on which they were made.

### Textual Amendments

- F15** Word in reg. 9(a) inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **10(a)**
- F16** Words in reg. 9(a) inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **10(b)**

## Daily rest

10.—(1) [F17 A worker] is entitled to a rest period of not less than eleven consecutive hours in each 24-hour period during which he works for his employer.

(2) Subject to paragraph (3), a young worker is entitled to a rest period of not less than twelve consecutive hours in each 24-hour period during which he works for his employer.

(3) The minimum rest period provided for in paragraph (2) may be interrupted in the case of activities involving periods of work that are split up over the day or of short duration.

### Textual Amendments

- F17** Words in reg. 10(1) substituted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **11**

## Weekly rest period

11.—(1) Subject to paragraph (2), [F18 a worker] is entitled to an uninterrupted rest period of not less than 24 hours in each seven-day period during which he works for his employer.

(2) If his employer so determines, [F18 a worker] shall be entitled to either—

- (a) two uninterrupted rest periods each of not less than 24 hours in each 14-day period during which he works for his employer; or
- (b) one uninterrupted rest period of not less than 48 hours in each such 14-day period,

in place of the entitlement provided for in paragraph (1).

(3) Subject to paragraph (8), a young worker is entitled to a rest period of not less than 48 hours in each seven-day period during which he works for his employer.

(4) For the purpose of paragraphs (1) to (3), a seven-day period or (as the case may be) 14-day period shall be taken to begin—

- (a) at such times on such days as may be provided for for the purposes of this regulation in a relevant agreement; or
- (b) where there are no provisions of a relevant agreement which apply, at the start of each week or (as the case may be) every other week.

(5) In a case where, in accordance with paragraph (4), 14-day periods are to be taken to begin at the start of every other week, the first such period applicable in the case of a particular worker shall be taken to begin—

- (a) if the worker's employment began on or before the date on which these Regulations come into force, on 5th October 1998; or
- (b) if the worker's employment begins after the date on which these Regulations come into force, at the start of the week in which that employment begins.

(6) For the purposes of paragraphs (4) and (5), a week starts at midnight between Sunday and Monday.

(7) The minimum rest period to which [<sup>F19</sup>a worker] is entitled under paragraph (1) or (2) shall not include any part of a rest period to which the worker is entitled under regulation 10(1), except where this is justified by objective or technical reasons or reasons concerning the organization of work.

- (8) The minimum rest period to which a young worker is entitled under paragraph (3)—
  - (a) may be interrupted in the case of activities involving periods of work that are split up over the day or are of short duration; and
  - (b) may be reduced where this is justified by technical or organization reasons, but not to less than 36 consecutive hours.

#### Textual Amendments

**F18** Words in reg. 11(1)(2) substituted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, 12

**F19** Words in reg. 11(7) substituted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, 12

#### Rest breaks

**12.**—(1) Where [<sup>F20</sup>a worker's] daily working time is more than six hours, he is entitled to a rest break.

(2) The details of the rest break to which [<sup>F21</sup>a worker] is entitled under paragraph (1), including its duration and the terms on which it is granted, shall be in accordance with any provisions for the purposes of this regulation which are contained in a collective agreement or a workforce agreement.

(3) Subject to the provisions of any applicable collective agreement or workforce agreement, the rest break provided for in paragraph (1) is an uninterrupted period of not less than 20 minutes, and the worker is entitled to spend it away from his workstation if he has one.

(4) Where a young worker's daily working time is more than four and a half hours, he is entitled to a rest break of at least 30 minutes, which shall be consecutive if possible, and he is entitled to spend it away from his workstation if he has one.

(5) If, on any day, a young worker is employed by more than one employer, his daily working time shall be determined for the purpose of paragraph (4) by aggregating the number of hours worked by him for each employer.

Status: Point in time view as at 15/06/2022.

Changes to legislation: There are currently no known outstanding effects for the Working Time Regulations 1998, PART II. (See end of Document for details)

**Textual Amendments**

- F20** Words in reg. 12(1) substituted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **13(a)**
- F21** Words in reg. 12(2) substituted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **13(b)**

**Entitlement to annual leave**

**13.**—<sup>F22</sup>(1) Subject to paragraph (5), a worker is entitled to four weeks' annual leave in each leave year.]

<sup>F23</sup>(2) .....

- (3) A worker’s leave year, for the purposes of this regulation, begins—
  - (a) on such date during the calendar year as may be provided for in a relevant agreement; or
  - (b) where there are no provisions of a relevant agreement which apply—
    - (i) if the worker’s employment began on or before 1st October 1998, on that date and each subsequent anniversary of that date; or
    - (ii) if the worker’s employment begins after 1st October 1998, on the date on which that employment begins and each subsequent anniversary of that date.

(4) Paragraph (3) does not apply to a worker to whom Schedule 2 applies (workers employed in agriculture [<sup>F24</sup>in Wales or Scotland]) except where, in the case of a worker partly employed in agriculture [<sup>F24</sup>in Wales or Scotland], a relevant agreement so provides.

(5) Where the date on which a worker’s employment begins is later than the date on which (by virtue of a relevant agreement) his first leave year begins, the leave to which he is entitled in that leave year is a proportion of the period applicable under [<sup>F25</sup>paragraph (1)] equal to the proportion of that leave year remaining on the date on which his employment begins.

<sup>F26</sup>(6) .....

<sup>F27</sup>(7) .....

<sup>F27</sup>(8) .....

- (9) Leave to which a worker is entitled under this regulation may be taken in instalments, but—
  - (a) [<sup>F28</sup>subject to the exception in paragraphs (10) and (11),] it may only be taken in the leave year in respect of which it is due, and
  - (b) it may not be replaced by a payment in lieu except where the worker’s employment is terminated.

<sup>F29</sup>(10) Where in any leave year it was not reasonably practicable for a worker to take some or all of the leave to which the worker was entitled under this regulation as a result of the effects of coronavirus (including on the worker, the employer or the wider economy or society), the worker shall be entitled to carry forward such untaken leave as provided for in paragraph (11).

(11) Leave to which paragraph (10) applies may be carried forward and taken in the two leave years immediately following the leave year in respect of which it was due.

(12) An employer may only require a worker not to take leave to which paragraph (10) applies on particular days as provided for in regulation 15(2) where the employer has good reason to do so.

(13) For the purpose of this regulation “coronavirus” means severe acute respiratory syndrome corona-virus 2 (SARS-CoV-2).]

### Textual Amendments

- F22** Reg. 13(1) substituted (25.10.2001) by [The Working Time \(Amendment\) Regulations 2001 \(S.I. 2001/3256\)](#), regs. 1(1), **2(2)**
- F23** Reg. 13(2) omitted (25.10.2001) by virtue of [The Working Time \(Amendment\) Regulations 2001 \(S.I. 2001/3256\)](#), regs. 1(1), **2(3)**
- F24** Words in reg. 13(4) inserted (E.) (1.10.2013) by [The Working Time \(Amendment\) \(England\) Regulations 2013 \(S.I. 2013/2228\)](#), regs. 1(2), **2(2)** (with reg. 3)
- F25** Words in reg. 13(5) substituted (25.10.2001) by [The Working Time \(Amendment\) Regulations 2001 \(S.I. 2001/3256\)](#), regs. 1(1), **2(4)**
- F26** Reg. 13(6) omitted (1.10.2007) by virtue of [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(4)**
- F27** Reg. 13(7)(8) omitted (25.10.2001) by virtue of [The Working Time \(Amendment\) Regulations 2001 \(S.I. 2001/3256\)](#), regs. 1(1), **2(6)**
- F28** Words in reg. 13(9)(a) inserted (26.3.2020 at 9.00 p.m.) by [The Working Time \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/365\)](#), regs. 1, **3(a)**
- F29** Reg. 13(10)-(13) inserted (26.3.2020 at 9.00 p.m.) by [The Working Time \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/365\)](#), regs. 1, **3(b)**

### [<sup>F30</sup>Entitlement to additional annual leave

**13A.**—(1) Subject to regulation 26A and paragraphs (3) and (5), a worker is entitled in each leave year to a period of additional leave determined in accordance with paragraph (2).

- (2) The period of additional leave to which a worker is entitled under paragraph (1) is—
- (a) in any leave year beginning on or after 1st October 2007 but before 1st April 2008, 0.8 weeks;
  - (b) in any leave year beginning before 1st October 2007, a proportion of 0.8 weeks equivalent to the proportion of the year beginning on 1st October 2007 which would have elapsed at the end of that leave year;
  - (c) in any leave year beginning on 1st April 2008, 0.8 weeks;
  - (d) in any leave year beginning after 1st April 2008 but before 1st April 2009, 0.8 weeks and a proportion of another 0.8 weeks equivalent to the proportion of the year beginning on 1st April 2009 which would have elapsed at the end of that leave year;
  - (e) in any leave year beginning on or after 1st April 2009, 1.6 weeks.

(3) The aggregate entitlement provided for in paragraph (2) and regulation 13(1) is subject to a maximum of 28 days.

(4) A worker's leave year begins for the purposes of this regulation on the same date as the worker's leave year begins for the purposes of regulation 13.

(5) Where the date on which a worker's employment begins is later than the date on which his first leave year begins, the additional leave to which he is entitled in that leave year is a proportion of the period applicable under paragraph (2) equal to the proportion of that leave year remaining on the date on which his employment begins.

(6) Leave to which a worker is entitled under this regulation may be taken in instalments, but it may not be replaced by a payment in lieu except where—

- (a) the worker's employment is terminated; or
- (b) the leave is an entitlement that arises under paragraph (2)(a), (b) or (c); or

*Status: Point in time view as at 15/06/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Working Time Regulations 1998, PART II. (See end of Document for details)*

(c) the leave is an entitlement to 0.8 weeks that arises under paragraph (2)(d) in respect of that part of the leave year which would have elapsed before 1st April 2009.

(7) A relevant agreement may provide for any leave to which a worker is entitled under this regulation to be carried forward into the leave year immediately following the leave year in respect of which it is due.

(8) This regulation does not apply to workers to whom the Agricultural Wages (Scotland) Act 1949 applies (as that Act had effect on 1 July 1999).]

#### Textual Amendments

**F30** Reg. 13A inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), 2(2)

#### Compensation related to entitlement to leave

14.—(1) [<sup>F31</sup>Paragraphs (1) to (4) of this regulation apply where—]

- (a) a worker's employment is terminated during the course of his leave year, and
- (b) on the date on which the termination takes effect ("the termination date"), the proportion he has taken of the leave to which he is entitled in the leave year under [<sup>F32</sup>regulation 13][<sup>F33</sup>and regulation 13A] differs from the proportion of the leave year which has expired.

(2) Where the proportion of leave taken by the worker is less than the proportion of the leave year which has expired, his employer shall make him a payment in lieu of leave in accordance with paragraph (3).

(3) The payment due under paragraph (2) shall be—

- (a) such sum as may be provided for for the purposes of this regulation in a relevant agreement, or
- (b) where there are no provisions of a relevant agreement which apply, a sum equal to the amount that would be due to the worker under regulation 16 in respect of a period of leave determined according to the formula—

$$(A \times B) - C$$

where—A is the period of leave to which the worker is entitled under [<sup>F34</sup>regulation 13][<sup>F35</sup>and regulation 13A];

B is the proportion of the worker's leave year which expired before the termination date, and

C is the period of leave taken by the worker between the start of the leave year and the termination date.

(4) A relevant agreement may provide that, where the proportion of leave taken by the worker exceeds the proportion of the leave year which has expired, he shall compensate his employer, whether by a payment, by undertaking additional work or otherwise.

[<sup>F36</sup>(5) Where a worker's employment is terminated and on the termination date the worker remains entitled to leave in respect of any previous leave year which carried forward under regulation 13(10) and (11), the employer shall make the worker a payment in lieu of leave equal to the sum due under regulation 16 for the period of untaken leave.]

### Textual Amendments

- F31** Words in reg. 14(1) substituted (26.3.2020 at 9.00 p.m.) by [The Working Time \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/365\)](#), regs. 1, **4(a)**
- F32** Words in reg. 14(1) substituted (25.10.2001) by [The Working Time \(Amendment\) Regulations 2001 \(S.I. 2001/3256\)](#), regs. 1(1), **3**
- F33** Words in reg. 14(1)(b) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(5)**
- F34** Words in reg. 14(3) substituted (25.10.2001) by [The Working Time \(Amendment\) Regulations 2001 \(S.I. 2001/3256\)](#), regs. 1(1), **3**
- F35** Words in reg. 14(3) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(5)**
- F36** Reg. 14(5) inserted (26.3.2020 at 9.00 p.m.) by [The Working Time \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/365\)](#), regs. 1, **4(b)**

### Dates on which leave is taken

**15.**—(1) A worker may take leave to which he is entitled under [<sup>F37</sup>regulation 13][<sup>F38</sup>and regulation 13A] on such days as he may elect by giving notice to his employer in accordance with paragraph (3), subject to any requirement imposed on him by his employer under paragraph (2).

(2) A worker's employer may require the worker—

- (a) to take leave to which the worker is entitled under [<sup>F37</sup>regulation 13][<sup>F39</sup>or regulation 13A];  
or
- (b) not to take such leave [<sup>F40</sup>(subject, where it applies, to the requirement in regulation 13(12))],

on particular days, by giving notice to the worker in accordance with paragraph (3).

(3) A notice under paragraph (1) or (2)—

- (a) may relate to all or part of the leave to which a worker is entitled in a leave year;
- (b) shall specify the days on which leave is or (as the case may be) is not to be taken and, where the leave on a particular day is to be in respect of only part of the day, its duration; and
- (c) shall be given to the employer or, as the case may be, the worker before the relevant date.

(4) The relevant date, for the purposes of paragraph (3), is the date—

- (a) in the case of a notice under paragraph (1) or (2)(a), twice as many days in advance of the earliest day specified in the notice as the number of days or part-days to which the notice relates, and
- (b) in the case of a notice under paragraph (2)(b), as many days in advance of the earliest day so specified as the number of days or part-days to which the notice relates.

(5) Any right or obligation under paragraphs (1) to (4) may be varied or excluded by a relevant agreement.

(6) This regulation does not apply to a worker to whom Schedule 2 applies (workers employed in agriculture [<sup>F41</sup>in Wales or Scotland]) except where, in the case of a worker partly employed in agriculture [<sup>F41</sup>in Wales or Scotland], a relevant agreement so provides.

*Status: Point in time view as at 15/06/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Working Time Regulations 1998, PART II. (See end of Document for details)*

### Textual Amendments

- F37** Words in reg. 15(1)(2) substituted (25.10.2001) by [The Working Time \(Amendment\) Regulations 2001 \(S.I. 2001/3256\)](#), regs. 1(1), **3**
- F38** Words in reg. 15(1) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(5)**
- F39** Words in reg. 15(2)(a) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(6)**
- F40** Words in reg. 15(2)(b) inserted (26.3.2020 at 9.00 p.m.) by [The Working Time \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/365\)](#), regs. 1, **5**
- F41** Words in reg. 15(6) inserted (E.) (1.10.2013) by [The Working Time \(Amendment\) \(England\) Regulations 2013 \(S.I. 2013/2228\)](#), regs. 1(2), **2(3)** (with reg. 3)

### [<sup>F42</sup>Leave during the first year of employment

**15A.**—(1) During the first year of his employment, the amount of leave a worker may take at any time in exercise of his entitlement under regulation 13 [<sup>F43</sup>or regulation 13A] is limited to the amount which is deemed to have accrued in his case at that time under paragraph (2) [<sup>F44</sup>or (2A)], as modified under paragraph (3) in a case where that paragraph applies, less the amount of leave (if any) that he has already taken during that year.

(2) For the purposes of paragraph (1), [<sup>F45</sup>in the case of workers to whom the Agricultural Wages (Scotland) Act 1949 applies,] leave is deemed to accrue over the course of the worker's first year of employment, at the rate of one-twelfth of the amount specified in regulation 13(1) on the first day of each month of that year.

[<sup>F46</sup>(2A) Except where paragraph (2) applies, for the purposes of paragraph (1), leave is deemed to accrue over the course of the worker's first year of employment, at the rate of one-twelfth of the amount specified in regulation 13(1) and regulation 13A(2), subject to the limit contained in regulation 13A(3), on the first day of each month of that year.]

(3) Where the amount of leave that has accrued in a particular case includes a fraction of a day other than a half-day, the fraction shall 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.

(4) This regulation does not apply to a worker whose employment began on or before 25th October 2001.]

### Textual Amendments

- F42** Reg. 15A inserted (25.10.2001) by [The Working Time \(Amendment\) Regulations 2001 \(S.I. 2001/3256\)](#), regs. 1(1), **4**
- F43** Words in reg. 15A(1) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(6)**
- F44** Words in reg. 15A(1) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(7)**
- F45** Words in reg. 15A(2) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(8)**
- F46** Reg. 15A(2A) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(9)**

## Payment in respect of periods of leave

16.—(1) A worker is entitled to be paid in respect of any period of annual leave to which he is entitled under regulation 13 [<sup>F47</sup>and regulation 13A], at the rate of a week’s pay in respect of each week of leave.

(2) Sections 221 to 224 of the 1996 Act shall apply for the purpose of determining the amount of a week’s pay for the purposes of this regulation, subject to the modifications set out in paragraph (3) [<sup>F48</sup>and the exception in paragraph (3A)].

(3) The provisions referred to in paragraph (2) shall apply—

- (a) as if references to the employee were references to the worker;
- (b) as if references to the employee’s contract of employment were references to the worker’s contract;
- (c) as if the calculation date were the first day of the period of leave in question; <sup>F49</sup>...
- (d) as if the references to sections 227 and 228 did not apply;
- [<sup>F50</sup>(e) subject to the exception in sub-paragraph (f)(ii), as if in sections 221(3), 222(3) and (4), 223(2) and 224(2) and (3) references to twelve were references to—
  - (i) in the case of a worker who on the calculation date has been employed by their employer for less than 52 complete weeks, the number of complete weeks for which the worker has been employed, or
  - (ii) in any other case, 52; and
- (f) in any case where section 223(2) or 224(3) applies as if—
  - (i) account were not to be taken of remuneration in weeks preceding the period of 104 weeks ending—
    - (aa) where the calculation date is the last day of a week, with that week, and
    - (bb) otherwise, with the last complete week before the calculation date; and
  - (ii) the period of weeks required for the purposes of sections 221(3), 222(3) and (4) and 224(2) was the number of weeks of which account is taken.]

[<sup>F51</sup>(3A) In any case where applying sections 221 to 224 of the 1996 Act subject to the modifications set out in paragraph (3) gives no weeks of which account is taken, the amount of a week’s pay is not to be determined by applying those sections, but is the amount which fairly represents a week’s pay having regard to the considerations specified in section 228(3) as if references in that section to the employee were references to the worker.

(3B) For the purposes of paragraphs (3) and (3A) “week” means, in relation to a worker whose remuneration is calculated weekly by a week ending with a day other than Saturday, a week ending with that other day and, in relation to any other worker, a week ending with Saturday.]

(4) A right to payment under paragraph (1) does not affect any right of a worker to remuneration under his contract (“contractual remuneration”) [<sup>F52</sup>(and paragraph (1) does not confer a right under that contract)].

(5) Any contractual remuneration paid to a worker in respect of a period of leave goes towards discharging any liability of the employer to make payments under this regulation in respect of that period; and, conversely, any payment of remuneration under this regulation in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

*Status: Point in time view as at 15/06/2022.*

*Changes to legislation: There are currently no known outstanding effects for the  
The Working Time Regulations 1998, PART II. (See end of Document for details)*

#### **Textual Amendments**

- F47** Words in reg. 16(1) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(5)**
- F48** Words in reg. 16(2) inserted (6.4.2020) by [The Employment Rights \(Employment Particulars and Paid Annual Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/1378\)](#), regs. 1, **10(2)**
- F49** Word in reg. 16(3)(c) omitted (6.4.2020) by virtue of [The Employment Rights \(Employment Particulars and Paid Annual Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/1378\)](#), regs. 1, **10(3)(a)**
- F50** Reg. 16(3)(e)(f) inserted (6.4.2020) by [The Employment Rights \(Employment Particulars and Paid Annual Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/1378\)](#), regs. 1, **10(3)(b)**
- F51** Reg. 16(3A)(3B) inserted (6.4.2020) by [The Employment Rights \(Employment Particulars and Paid Annual Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/1378\)](#), regs. 1, **10(4)**
- F52** Words in reg. 16(4) inserted (8.1.2015) by [The Deduction from Wages \(Limitation\) Regulations 2014 \(S.I. 2014/3322\)](#), regs. 1(1), **3**

#### **Entitlements under other provisions**

17. Where during any period a worker is entitled to a rest period, rest break or annual leave both under a provision of these Regulations and under a separate provision (including a provision of his contract), he may not exercise the two rights separately, but may, in taking a rest period, break or leave during that period, take advantage of whichever right is, in any particular respect, the more favourable.

**Status:**

Point in time view as at 15/06/2022.

**Changes to legislation:**

There are currently no known outstanding effects for the The Working Time Regulations 1998, PART II.