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## STATUTORY INSTRUMENTS

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# 1998 No. 1833

## The Working Time Regulations 1998

### PART III

### EXCEPTIONS

#### [<sup>F1</sup>Excluded sectors

18.—(1) These Regulations do not apply—

- (a) to workers to whom the European Agreement on the organisation of working time of seafarers dated 30th September 1998 and put into effect by Council Directive [1999/63/EC](#) of 21st June 1999 applies;
- (b) to workers on board a sea-going fishing vessel; or

[<sup>F2</sup>(c) to workers to whom the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003 apply].

(2) Regulations 4(1) and (2), 6(1), (2) and (7), 7(1) and (6), 8, 10(1), 11(1) and (2), 12(1), 13 and 16 do not apply—

- (a) where characteristics peculiar to certain specific services such as the armed forces or the police, or to certain specific activities in the civil protection services, inevitably conflict with the provisions of these Regulations;
- (b) to workers to whom the European Agreement on the organisation of working time of mobile staff in civil aviation concluded on 22nd March 2000 and implemented by Council Directive [2000/79/EC](#) of 27th November 2000 applies; or
- (c) to the activities of workers who are doctors in training.

(3) Paragraph (2)(c) has effect only until 31st July 2004.

(4) Regulations 4(1) and (2), 6(1), (2) and (7), 8, 10(1), 11(1) and (2) and 12(1) do not apply to workers to whom Directive [2002/15/EC](#) of the European Parliament and of the Council on the organisation of the working time of persons performing mobile road transport activities, dated 11th March 2002 applies.]

#### Textual Amendments

**F1** Reg. 18 substituted (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, 4

**F2** Reg. 18(1)(c) substituted (24.12.2003) by [The Merchant Shipping \(Working Time Inland Waterways\) Regulations 2003 \(S.I. 2003/3049\)](#), reg. 1, **Sch. 2 para. 6**

#### Domestic service

19. Regulations 4(1) and (2) [<sup>F3</sup>, 5A(1) and (4),] 6(1), (2) and (7), [<sup>F4</sup>6A,] 7(1), (2) and (6) and 8 do not apply in relation to a worker employed as a domestic servant in a private household.

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

#### Textual Amendments

- F3** Words in reg. 19 inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **14(a)**
- F4** Word in reg. 19 inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **14(b)**

#### Unmeasured working time

**20.**—<sup>[F5]</sup>(1) Regulations 4(1) and (2), 6(1), (2) and (7), 10(1), 11(1) and (2) and 12(1) do not apply in relation to a worker where, on account of the specific characteristics of the activity in which he is engaged, the duration of his working time is not measured or predetermined or can be determined by the worker himself, as may be the case for—

- (a) managing executives or other persons with autonomous decision-taking powers;
- (b) family workers; or
- (c) workers officiating at religious ceremonies in churches and religious communities.

<sup>[F6]</sup>(2) Where part of the working time of a worker is measured or predetermined or cannot be determined by the worker himself but the specific characteristics of the activity are such that, without being required to do so by the employer, the worker may also do work the duration of which is not measured or predetermined or can be determined by the worker himself, regulations 4(1) and (2) and 6(1), (2) and (7) shall apply only to so much of his work as is measured or predetermined or cannot be determined by the worker himself.]

#### Textual Amendments

- F5** [Reg. 20](#) renumbered as reg. 20(1) (17.12.1999) by [The Working Time Regulations 1999 \(S.I. 1999/3372\)](#), regs. 1(1), **4**
- F6** [Reg. 20\(2\)](#) inserted (17.12.1999) by [The Working Time Regulations 1999 \(S.I. 1999/3372\)](#), regs. 1(1), **4**

#### Other special cases

**21.** Subject to regulation 24, regulations 6(1), (2) and (7), 10(1), 11(1) and (2) and 12(1) do not apply in relation to a worker—

- (a) where the worker's activities are such that his place of work and place of residence are distant from one another <sup>[F7]</sup>, including cases where the worker is employed in offshore work,] or his different places of work are distant from one another;
- (b) where the worker is engaged in security and surveillance activities requiring a permanent presence in order to protect property and persons, as may be the case for security guards and caretakers or security firms;
- (c) where the worker's activities involve the need for continuity of service or production, as may be the case in relation to—
  - (i) services relating to the reception, treatment or care provided by hospitals or similar establishments <sup>[F8]</sup>(including the activities of doctors in training)], residential institutions and prisons;
  - (ii) work at docks or airports;

- (iii) press, radio, television, cinematographic production, postal and telecommunications services and civil protection services;
- (iv) gas, water and electricity production, transmission and distribution, household refuse collection and incineration;
- (v) industries in which work cannot be interrupted on technical grounds;
- (vi) research and development activities;
- (vii) agriculture;
- [<sup>F9</sup>(viii) the carriage of passengers on regular urban transport services;]
- (d) where there is a foreseeable surge of activity, as may be the case in relation to—
  - (i) agriculture;
  - (ii) tourism; and
  - (iii) postal services;
- (e) where the worker's activities are affected by—
  - (i) an occurrence due to unusual and unforeseeable circumstances, beyond the control of the worker's employer;
  - (ii) exceptional events, the consequences of which could not have been avoided despite the exercise of all due care by the employer; or
  - (iii) an accident or the imminent risk of an accident;
- [<sup>F10</sup>(f) where the worker works in railway transport and—
  - (i) his activities are intermittent;
  - (ii) he spends his working time on board trains; or
  - (iii) his activities are linked to transport timetables and to ensuring the continuity and regularity of traffic.]

#### Textual Amendments

- F7** Words in reg. 21(a) inserted (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, **5(a)**
- F8** Words in reg. 21(c)(i) inserted (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, **5(b)**
- F9** Reg. 21(c)(viii) added (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, **5(c)**
- F10** Reg. 21(f) added (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, **5(d)**

#### Shift workers

- 22.—(1) Subject to regulation 24—
- (a) regulation 10(1) does not apply in relation to a shift worker when he changes shift and cannot take a daily rest period between the end of one shift and the start of the next one;
  - (b) paragraphs (1) and (2) of regulation 11 do not apply in relation to a shift worker when he changes shift and cannot take a weekly rest period between the end of one shift and the start of the next one; and

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- (c) neither regulation 10(1) nor paragraphs (1) and (2) of regulation 11 apply to workers engaged in activities involving periods of work split up over the day, as may be the case for cleaning staff.
- (2) For the purposes of this regulation—
- “shift worker” means any worker whose work schedule is part of shift work; and
- “shift work” means any method of organizing work in shifts whereby workers succeed each other at the same workstations according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks.

### **Collective and workforce agreements**

- 23.** A collective agreement or a workforce agreement may—
- (a) modify or exclude the application of regulations 6(1) to (3) and (7), 10(1), 11(1) and (2) and 12(1), and
- (b) for objective or technical reasons or reasons concerning the organization of work, modify the application of regulation 4(3) and (4) by the substitution, for each reference to 17 weeks, of a different period, being a period not exceeding 52 weeks,

in relation to particular workers or groups of workers.

### **Compensatory rest**

**24.** Where the application of any provision of these Regulations is excluded by regulation 21 or 22, or is modified or excluded by means of a collective agreement or a workforce agreement under regulation 23(a), and a worker is accordingly required by his employer to work during a period which would otherwise be a rest period or rest break—

- (a) his employer shall wherever possible allow him to take an equivalent period of compensatory rest, and
- (b) in exceptional cases in which it is not possible, for objective reasons, to grant such a period of rest, his employer shall afford him such protection as may be appropriate in order to safeguard the worker’s health and safety.

### **[<sup>F11</sup>Mobile workers**

**24A.**—(1) Regulations 6(1), (2) and (7), 10(1), 11(1) and (2) and 12(1) do not apply to a mobile worker in relation to whom the application of those regulations is not excluded by any provision of regulation 18.

(2) A mobile worker, to whom paragraph (1) applies, is entitled to adequate rest, except where the worker’s activities are affected by any of the matters referred to in regulation 21(e).

(3) For the purposes of this regulation, “adequate rest” means that a worker has regular rest periods, the duration of which are expressed in units of time and which are sufficiently long and continuous to ensure that, as a result of fatigue or other irregular working patterns, he does not cause injury to himself, to fellow workers or to others and that he does not damage his health, either in the short term or in the longer term.]

#### **Textual Amendments**

**F11** Reg. 24A inserted (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, 6

## Workers in the armed forces

25.—(1) Regulation 9 does not apply in relation to a worker serving as a member of the armed forces.

(2) Regulations [<sup>F12</sup>5A, 6A,] 10(2) and 11(3) do not apply in relation to a young worker serving as a member of the armed forces.

(3) In a case where a young worker is accordingly required to work during [<sup>F13</sup>the restricted period, or is not permitted the minimum rest period provided for in regulation 10(2) or 11(3),] he shall be allowed an appropriate period of compensatory rest.

### Textual Amendments

**F12** Words in reg. 25(2) inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **15(a)**

**F13** Words in reg. 25 substituted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **15(b)**

## [<sup>F14</sup>Doctors in training

25A.—(1) Paragraph (1) of regulation 4 is modified in its application to workers who are doctors in training as follows—

- (a) for the reference to 48 hours there is substituted a reference to 58 hours with effect from 1st August 2004 until 31st July 2007;
- (b) for the reference to 48 hours there is substituted a reference to 56 hours with effect from 1st August 2007 until 31st July 2009.

(2) In the case of workers who are doctors in training, paragraphs (3)–(5) of regulation 4 shall not apply and paragraphs (3) and (4) of this regulation shall apply in their place.

(3) Subject to paragraph (4), the reference period which applies in the case of a worker who is a doctor in training is, with effect from 1st August 2004—

- (a) where a relevant agreement provides for the application of this regulation in relation to successive periods of 26 weeks, each such period; and
- (b) in any other case, any period of 26 weeks in the course of his employment.

(4) Where a doctor in training has worked for his employer for less than 26 weeks, the reference period applicable in his case is the period that has elapsed since he started work for his employer.]

### Textual Amendments

**F14** [Reg. 25A](#) inserted (1.8.2004) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, 7

## [<sup>F15</sup>Workers employed in offshore work

25B.—(1) In the case of workers employed in offshore work, paragraphs (3)–(5) of regulation 4 shall not apply and paragraphs (2) and (3) of this regulation shall apply in their place.

(2) Subject to paragraph (3), the reference period which applies in the case of workers employed in offshore work is—

- (a) where a relevant agreement provides for the application of this regulation in relation to successive periods of 52 weeks, each such period; and

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(b) in any other case, any period of 52 weeks in the course of his employment.

(3) Where a worker employed in offshore work has worked for his employer for less than 52 weeks, the reference period applicable in his case is the period that has elapsed since he started work for his employer.]

**Textual Amendments**

**F15** Reg. 25B inserted (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, **8**

**Young workers employed on ships**

<sup>F16</sup>26. ....

**Textual Amendments**

**F16** Reg. 26 revoked (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, **9**

**Young workers:force majeure**

27.—(1) Regulations [<sup>F17</sup>5A, 6A,] 10(2) and 12(4) do not apply in relation to a young worker where his employer requires him to undertake work which no adult worker is available to perform and which—

- (a) is occasioned by either—
  - (i) an occurrence due to unusual and unforeseeable circumstances, beyond the employer’s control, or
  - (ii) exceptional events, the consequences of which could not have been avoided despite the exercise of all due care by the employer;
- (b) is of a temporary nature; and
- (c) must be performed immediately.

(2) Where the application of regulation [<sup>F18</sup>5A, 6A,] 10(2) or 12(4) is excluded by paragraph (1), and a young worker is accordingly required to work during a period which would otherwise be a rest period or rest break, his employer shall allow him to take an equivalent period of compensatory rest within the following three weeks.

**Textual Amendments**

- F17** Words in reg. 27(1) inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **18(a)**
- F18** Words in reg. 27(2) inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **18(b)**

<sup>F19</sup>**Other exceptions relating to young workers**

27A.—(1) Regulation 5A does not apply in relation to a young worker where—

- (a) the young worker's employer requires him to undertake work which is necessary either to maintain continuity of service or production or to respond to a surge in demand for a service or product;
  - (b) no adult worker is available to perform the work, and
  - (c) performing the work would not adversely affect the young worker's education or training.
- (2) Regulation 6A does not apply in relation to a young worker employed—
- (a) in a hospital or similar establishment, or
  - (b) in connection with cultural, artistic, sporting or advertising activities,
- in the circumstances referred to in paragraph (1).
- (3) Regulation 6A does not apply, except in so far as it prohibits work between midnight and 4 a.m., in relation to a young worker employed in—
- (a) agriculture;
  - (b) retail trading;
  - (c) postal or newspaper deliveries;
  - (d) a catering business;
  - (e) a hotel, public house, restaurant, bar or similar establishment, or
  - (f) a bakery,
- in the circumstances referred to in paragraph (1).
- (4) Where the application of regulation 6A is excluded by paragraph (2) or (3), and a young worker is accordingly required to work during a period which would otherwise be a rest period or rest break—
- (a) he shall be supervised by an adult worker where such supervision is necessary for the young worker's protection, and
  - (b) he shall be allowed an equivalent period of compensatory rest.]

**Textual Amendments**

**F19** Reg. 27A inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, 17

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