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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;

[<sup>F2</sup>(b) to workers to whom the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 apply];

[<sup>F3</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 [<sup>F4</sup>, 13A] 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.

[<sup>F5</sup>(5) Regulation 24 does not apply to workers to whom the Cross-border Railways Services (Working Time) Regulations 2008 apply.]]

**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)(b) substituted (16.8.2004) by [The Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004 \(S.I. 2004/1713\)](#), reg. 1, **Sch. 2 para. 6** (with reg. 3(1))

**F3** 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**

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- F4** Word in reg. 18(2) inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), **2(10)**
- F5** Reg. 18(5) inserted (27.7.2008) by [The Cross-border Railway Services \(Working Time\) Regulations 2008 \(S.I. 2008/1660\)](#), reg. 1(1), **Sch. 3 para. 4**

**Domestic service**

19. Regulations 4(1) and (2) [<sup>F6</sup>, 5A(1) and (4),] 6(1), (2) and (7), [<sup>F7</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.

**Textual Amendments**

- F6** Words in reg. 19 inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **14(a)**
- F7** 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>F8</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>F9</sup>(2) .....

**Textual Amendments**

- F8** [Reg. 20](#) renumbered as reg. 20(1) (17.12.1999) by [The Working Time Regulations 1999 \(S.I. 1999/3372\)](#), regs. 1(1), **4**
- F9** [Reg. 20\(2\)](#) revoked (6.4.2006) by [The Working Time \(Amendment\) Regulations 2006 \(S.I. 2006/99\)](#), regs. 1, **2**

**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>F10</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>F11</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>F12</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>F13</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

- F10** Words in reg. 21(a) inserted (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, **5(a)**
- F11** 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)**
- F12** Reg. 21(c)(viii) added (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, **5(c)**
- F13** 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;

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- (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
  - (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>F14</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

- F14** 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>F15</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>F16</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

- F15** Words in reg. 25(2) inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **15(a)**
- F16** Words in reg. 25 substituted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **15(b)**

#### [<sup>F17</sup>Doctors in training

**25A.**—[<sup>F18</sup>(1) Paragraph (1) of regulation 4 is modified in its application to workers to whom this paragraph applies by substituting for the reference to 48 hours a reference to 52 hours—

- (a) in the case of doctors in training who are employed in an employment falling within Table 1 of Schedule 2A, with effect from 1st August 2009 until 31st July 2011; and
- (b) in the case of doctors in training who are employed in an employment falling within Table 2 of Schedule 2A, with effect from 2nd November 2009 until 31st July 2011.]

[<sup>F19</sup>(1A) Paragraph (1) applies to workers who are doctors in training who are employed—

- (a) by an employer who is listed in column 1 of [<sup>F20</sup>Table 1 or Table 2] contained in Schedule 2A,
- (b) at a place listed in column 2 of [<sup>F21</sup>the applicable table] in respect of that employer,
- (c) to provide at that place one of the specialist services listed in column 3 of [<sup>F22</sup>the applicable table] in respect of that place, and
- (d) in one of the grades listed in column 4 of [<sup>F23</sup>the applicable table] in respect of that specialist service and, where applicable, working as part of a rota referred to in that column in respect of that grade, or those grades.]

(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

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(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**

- F17** Reg. 25A inserted (1.8.2004) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, 7
- F18** Reg. 25A(1) substituted (2.11.2009) by [The Working Time \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/2766\)](#), regs. 1, **2(a)**
- F19** Reg. 25A(1)(1A) substituted for reg. 25A(1) (1.8.2009) by [The Working Time \(Amendment\) Regulations 2009 \(S.I. 2009/1567\)](#), regs. 1, **2(a)**
- F20** Words in reg. 25A(1A)(a) substituted (2.11.2009) by [The Working Time \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/2766\)](#), regs. 1, **2(b)(i)**
- F21** Words in reg. 25A(1A)(b) substituted (2.11.2009) by [The Working Time \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/2766\)](#), regs. 1, **2(b)(ii)**
- F22** Words in reg. 25A(1A)(c) substituted (2.11.2009) by [The Working Time \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/2766\)](#), regs. 1, **2(b)(iii)**
- F23** Words in reg. 25A(1A)(d) substituted (2.11.2009) by [The Working Time \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/2766\)](#), regs. 1, **2(b)(iv)**

**[<sup>F24</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
- (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**

- F24** 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>F25</sup>**26.** . . . . .

**Textual Amendments**

- F25** Reg. 26 revoked (1.8.2003) by [The Working Time \(Amendment\) Regulations 2003 \(S.I. 2003/1684\)](#), regs. 1, **9**

## [<sup>F26</sup>Entitlement to additional annual leave under a relevant agreement

**26A.**—(1) Regulation 13A does not apply in relation to a worker whose employer, as at 1st October 2007 and by virtue of a relevant agreement, provides each worker employed by him with an annual leave entitlement of 1.6 weeks or 8 days (whichever is the lesser) in addition to each worker's entitlement under regulation 13, provided that such additional annual leave—

- (a) may not be replaced by a payment in lieu except in relation to a worker whose employment is terminated;
- (b) may not be carried forward into a leave year other than that which immediately follows the leave year in respect of which the leave is due; and
- (c) is leave for which the worker is entitled to be paid at not less than the rate of a week's pay in respect of each week of leave, calculated in accordance with sections 221 to 224 of the 1996 Act, modified such that—
  - (i) references to the employee are references to the worker;
  - (ii) references to the employee's contract of employment are references to the worker's contract;
  - (iii) the calculation date is the first day of the period of leave in question; and
  - (iv) the references to sections 227 and 228 do not apply.

(2) Notwithstanding paragraph (1), any additional annual leave in excess of 1.6 weeks or 8 days (whichever is the lesser) to which a worker is entitled, shall not be subject to the conditions of that paragraph.

(3) This regulation shall cease to apply to a worker from the day when an employer ceases to provide additional annual leave in accordance with the conditions in paragraph (1).

(4) 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

**F26** Reg. 26A inserted (1.10.2007) by [The Working Time \(Amendment\) Regulations 2007 \(S.I. 2007/2079\)](#), regs. 1(2), 2(3)

## Young workers:*force majeure*

**27.**—(1) Regulations [<sup>F27</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>F28</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.

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#### Textual Amendments

- F27** Words in reg. 27(1) inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **18(a)**
- F28** 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>F29</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

- F29** Reg. 27A inserted (6.4.2003) by [The Working Time \(Amendment\) Regulations 2002 \(S.I. 2002/3128\)](#), regs. 1, **17**



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