

Working Time

Working Time Series

Working Time

Working for too long can damage health, upset sleep patterns and cause accidents. For this reason the law places limits on how long a person can work.

Working Hours

What is the maximum amount of hours which I can work?

The maximum **average** working week is **48 hours**. This does not mean that it is prohibited to work more than these hours in any week, nor does it mean that one can stop work when you have worked 48 hours in a week. However it means that on average your working time should not be greater than 48 hours. An exception is night time working where the maximum is **8** hours.

How are these averages calculated?

Working hours are averaged out over what is called reference periods. The 48 hour working week can be averaged out as follows:

- 4 months, for workers generally,
- 6 months - where work is subject to **seasonality, unforeseen surges** in activity or where workers are directly involved in **ensuring continuity of service or production**.
- 12 months - for all employees who entered into an agreement with their employer which is approved by the Labour Court.

I am under 18, can I work the average maximum hours?

No, persons under 18 have their hours set out under the **Protection of Young Persons (Employment) Act, 1996**.

What is a working day?

All time in which you are physically present in the workplace and available for work is regarded as part of your working day within which appropriate **rest periods must be given**. If there is any dispute on this issue in your workplace contact your local union representative or become a **union member**.

Rest periods & breaks

What rest periods am I entitled to?

The general entitlement for all workers is:

- 11 hours daily rest in each 24 hour period. This means that there must be 11 hours between the time you finish work and the time you start again.
- 1 period of 24 hours rest per week preceded by a daily rest period of 11 hours. This means you must have one day off per week
- Rest breaks during work include 15 minutes after 4.5 hours have been worked; 30 minutes where up to 6 hours have been worked which may include the first break.

Am I entitled to paid breaks?

You are not entitled to be paid for breaks but custom and practice will often mean that some breaks are paid. Unionised workplaces will generally have negotiated paid breaks for workers so contact your local union representative for further information or become a **union member** to get more details on this and other work related issues.

I am a shop worker, am I entitled to the same breaks?

If you are a shop worker, you are entitled to a 1 hour break if you work more than a 6 hour day.

If your hours of work include the period between **11.30 a.m.** and **2.30 p.m.** then your one hour break must commence between those hours.

The break **MUST** not start at the end of a working day.

Are all shops covered by this rule regarding breaks?

Yes, any premises which are considered a retail business are legally obliged to observe these regulations. Retail businesses include barbers or hairdressers, business which hires goods, pawnbrokers retail sales by auction, business which cleans, repairs, alters or launders clothes, a wholesalers, and warehouses.

If you think your workplace is in breach of these standards, please let your local union representative or local **union office** know.

How do I know what breaks operate in my workplace?

As a worker you are entitled to receive details of your rest periods, meal times and breaks in a statement of your terms of employment from their employer under **employment legislation**.

Your employer must notify you in advance of any changes in working times unless in exceptional or unforeseen circumstances.

Employers must by law, keep records of all the hours worked by employees. Where they fail to do so, the **Labour Court** has awarded compensation to the employee.

On-call working

What is on-call working?

An employer can hire employees to be available to work, but where they are not called to work the employee will receive compensation as follows;

- If you are required to be available for work at any time and are not actually called, you must be paid for 25 per cent of that time. If you are required to be available between 1 and 5 pm (4 hours) but are not called you must be paid for 4 hours.
- If an employee is required to work less than 25% of the hours for which they have been asked to be available, they must be compensated for the difference between the hours actually worked and 25% of the time they have been asked to be available. For example if you have been asked to be available for 40 hours but only actually work for 8 hours [20% of available hours], then you will be compensated for the difference between 10 hours [25% of 40] and 8 hours [hours actually worked] which is 2 hours.

Compensation is not payable, however, when the employee is paid for making themselves available for work – such as call out, stand-by or fall-back allowance.

If your hours are rostered on a weekly basis, you must be given at least 24 hours notice of any proposed changes. Where there are problems with rosters please alert your union representative to the issues. If you are not a member of a union contact UnionConnect @ 0818 300 900 for an membership application form.

Zero-hour contracts or employment on an on-call basis without compensation are in breach of employment legislation (**Organisation of Working Time Act**).

Zero hours & compensation

My contract doesn't guarantee me any hours unless I am called in, is this allowed?

No, it is not. Zero hours working practices is where an employee is asked to be available for work without any guarantees that work is available or where an employee is told that there will be work available on specific day(s).

If you have made yourself available for work but have not been required to work, then you will be entitled to compensation.

Is the compensation in addition to other allowances?

No, if you are paid wages for making yourself available for work or if you receive an on-call allowance, then you will not be entitled to compensation.

Compensation is also not payable when an employee is sick, on short-time or lay-off, or in the event of an emergency.

I made myself available for work but my employer said that they didn't need me to be available, do I get compensation?

Your entitlement to a minimum payment does not arise due to an expectation that employment would be given. Compensation is applicable when you are notified in advance by your employer of being required to work or if your contract of employment requires you to be available for work.

If there is any confusion regarding any of these issues or you need advice regarding your contract, don't hesitate to contact your union representative or local union office.

I work on a casual basis, am I still be entitled to this allowance if I make myself available for work?

Provided you meet the conditions already set out, the protections apply to all employees whose contract requires them to be available whether you work on a casual basis or not.

However, you will not be entitled to the minimum payment if you expect to work. Only if you have been asked to be available for work will you have an entitlement to compensation.

What is the compensation for being available for work?

If you have made yourself available for work and your employer doesn't require you to work then you will be entitled to 25% of the time which you were required to be available.

You will be entitled to **payment** for 25% of the contract hours or 15 hours whichever is greater.

How is compensation calculated under the zero hours protection?

For instance, if your contract states that you are required to be available for **48 hours** in a week, you will be entitled to a minimum payment of **12 hours**, even if you are **not required to work** in that week.

Night-working

I work quite late hours, is this considered night working?

Under the Organisation of Working Time Act 1997, night-time is the period between **midnight and 7am** on the following day.

If you work:

- at least **3 hours** of your daily working time during this period of night-time
AND

- on a yearly basis the number of hours worked **equals or exceeds 50%** of annual working time

then you are considered a night worker.

Is there a maximum amount of hours allowed to be worked at night?

Yes, for night workers the maximum allowed hours are 48 per week averaged over 2 months. This period may be longer if specified within a **collective agreement** and approved by the Labour Court. If you are unsure what the situation is within your own workplace, please contact your **union representation or local union office** who will be able to advise on the specifics of your case.

I work at night with hazardous materials such as chemicals, do the same rules of hours apply?

No, if your job involves special hazards, heavy physical or mental strain then the maximum hours you may work per night are 8 hours in any 24 hour period of night work.

Record of hours

How do I know how many hours I have worked?

You need to speak with your employer who must by law keep a record of all your hours worked. The records of hours worked by each employee must be kept for a period of 3 years.

The **Labour Court**, has ruled that where employers fail to keep the required records, they will have to prove that they have complied with the legislation. If you have any difficulty gaining information from your employer on your working hours, discuss the issue with your union representative or union official.

What other information regarding my employment should my employer record?

Records should contain your name & address, RSI number and a brief statement of your duties. This information should be held for each employee.

You are also entitled to receive a copy of the statement setting out the days and total hours that you have worked in each week, recording any holidays that were taken each week, either annual or public holiday and payment for those holidays.

The statement must be set out so that it is clearly understood. If you have any difficulty either in obtaining this statement or understanding what it contains, please contact your union representative or **local union office**.

I don't "clock-in" in my workplace, how would my hours be recorded?

If there are no clocking facilities in your workplace to record the time you have worked, your employer must still keep a record of hours worked for each employee [Form OWT1].

This OWT1 Form or a statement of the days and hours worked by every employee must be available at all times for inspection.

Young workers

What hours can young people legally work?

If you are between 16 and 18 yrs old you are protected under the **Protection of Young Persons Act**.

Children under 14 years of age

- If you are under 14 years you cannot work during term-time.

Children 15 years of age

- If you are 15 years you can work up to a maximum of 8 hours per week.
- If you are 15 or over you can take up work experience up to 40 hours per week, provided it is not harmful to your 'safety, health or development'.

Children under 16 years of age

- the maximum working week of 35 hours can be worked outside of school term.
- a full working week is a maximum of 35 hours and this can only be worked outside school term.
- the maximum working day for a 35 hour week is 7-hours and 8-hours for a 40-hour week.
- may not be required to work before 8 a.m. or after 8 p.m. at night.
- may be employed in film, cultural, sport or advertising work under licence which sets out specific protection for this age group.
- must have at least 21 days free from work during the summer holidays.

If you are between 17 and 18 years

If you are aged 17 and 18, you can work up to a maximum of 8 hours per day and 40 hours per week. You must have a break after 4.5 hours of work and a break of 12 consecutive hours after an 8 hour day. Your weekly rest break must be at least two days, which must be consecutive 'as far as is practicable'.

I am under 18 and some of my working hours are early in the morning, is this allowed?

In general, 16 and 17 year olds may not be employed before 6 a.m. in the morning or after 10 p.m. at night.

However, during school holidays and on weekend nights where you have **no school the next day**, 16-17 year olds may work up to 11 p.m. at night. The ban on early morning work then moves up to 7 a.m.

This can only happen where a case has been made that there are exceptional circumstances, following consultation with representatives of the employees and employers concerned. For more information please contact your union representative or local **union office**.

Sunday working

Do I get any extra pay for working on Sundays?

According to the Organisation of Working Time Act a **special allowance** must be paid for Sunday working. The act does not specify what this allowance is. If Sunday working has not been taken into account in determining the rate of pay, every individual should be compensated as follows:

- Payment of a reasonable allowance OR
- Increasing the rate of payment by a reasonable amount OR
- Giving the individual reasonable paid time off from work OR
- A combination of two or more of the above.

Your union will have negotiated a suitable allowance for Sunday working and so you should contact your union representative who will provide you with further details on Sunday working and associated payments.

What is the rate paid for working on Sundays?

Under the law there is no actual amount specified, instead there is a reference to payment for Sunday being either a “reasonable allowance”, “reasonable amount” or “reasonable paid time off”.

Such payments are generally the subject of negotiations between your union and employer.

If you feel that you are not receiving proper recognition or payment for working on Sunday, please contact your union representative **or union official**.

If the terms of payment for Sunday working are not specified, the rates in the closest applicable collective agreement should be paid. If you are unsure about what this is, please contact your union representative or **union official**.

The Sunday premium must be recognisable as extra pay. If the rate paid is the same for all workers and some of them do not work on Sunday, **this does not constitute a** Sunday premium and your right has been violated.

An employment contract cannot incorporate an element in basic pay to cover annual leave and public holiday entitlements.

If I work regularly on Sundays, do I still get additional pay?

If Sunday working is a regular requirement, the rate of the Sunday premium must be included in your contract of employment. Workers who are recruited to work only on Sundays are still entitled to the Sunday premium rate of pay. Within your contract Sunday working hours may be described as ‘unsocial hours payments’.

I am not sure what my payment rate is for Sundays, how can I find this out?

Under the law, your employer is obliged to retain records including your working hours, this includes keeping records of Sundays worked by employees and the associated rates of pay.

You should approach your employer, initially, who will be able to tell you what your Sunday payment is. If you have any problems obtaining or understanding this information, you should contact your union representative or union office.

Over-time

How much should I get for overtime?

Overtime hours and pay rates are not explicitly covered by the Organisation of Working Time Act (OWTA) and are usually the subject of negotiations on the basis of your normal pay rate. Further information on overtime rates can be obtained from your **local union representative or union official**. The manner in which your overtime is calculated should be set out in your contract of employment.

Where your employment is covered by a **Registered Employment Agreement**, such as in the construction or security industry, the overtime rates are legally binding on all employments in that sector.

If you are a part-time worker, you are entitled to the same rates of overtime pay as a comparable full-time employee.

Part-time working

How many hours do part-time workers work?

There are no set hours for part-time workers. A part-time worker is an employee whose hours of work are less than the normal hours of a **full-time worker**.

Rosters/Rotas

My supervisor continuously changes my roster without telling me, what can I do?

You must be notified at least 24 hours in advance of additional hours, overtime or changes to your rosters which you are required to work. This is the **minimum allowed** under legislation.

However, in unionised workplaces the union may have reached an agreement with your employer guaranteeing advance notice of at least one week for roster changes. As this is specific to each workplace you will need to contact your **local union representative or union official** for more information and their assistance.

I don't think I am receiving my full entitlements under this Act, what should I do?

If you feel you are not receiving your statutory entitlements there are a number of options which you can take to address the issue.

You can make the **complaint to your employer**. If unresolved you can then refer it on to the **Rights Commissioner Service** or take a claim to the **Employment Appeals Tribunal**.

Alternatively, if you notify your employer and there is no resolution, you can seek support and advice from your local union official who may be able to represent you on this issue.

LOG ON TO ...

www.unionconnect.ie
for information on:

- ➔ employment rights
- ➔ union member case studies
- ➔ hot topics