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## orking Time Regulations

The Working Time Regulations 1998 came into force on 1 October 1998. These Regulations limit working hours and provide for rest breaks and minimum paid holiday rights.

The Regulations apply to 'workers'. This includes employees, temporary workers and freelancers, but not individuals who are genuinely self-employed. Young workers are also covered by the Regulations and are protected by special rights such as greater rest break entitlements.

'Working time' is defined as any period during which a worker is 'working, at an employer's disposal and carrying out their activity or duties'; any period during which the worker is receiving 'relevant training'; or any additional period that is agreed in a relevant agreement to be 'working time'. This can lead to uncertainty in some cases, but working time will not usually include time spent travelling to and from the workplace and time during rest breaks. Time spent on call constitutes working time if the employee is required to be in the workplace rather than at home, even if the worker is asleep for some or all of that time.

An employer is expected to take all reasonable steps in keeping with the need to protect health and safety, to ensure that in principle each worker works no more than 48 hours on average in each working week. Young workers may not work more than eight hours a day or 40 hours a week and, unlike the working hours of adult workers, there are no averaging provisions for young workers.

The average working time is calculated across a 17-week rolling reference period immediately prior to the calculation date. This reference period can be extended in certain circumstances such as where the worker is a new starter; where there is a relevant agreement replacing the rolling 17-week periods with fixed successive periods of 17 weeks; under a collective or workforce agreement; and where special case provisions apply to the worker.

The time spent working for any employer is included as working time, so care is needed if an employer knows or should know that an employee has more than one job. A worker cannot be forced to work more than these hours if the hours constitute 'working time'.

The Regulations allow a worker to opt out of the 48-hour week restriction by written agreement in a number of ways, including by way of an amendment to the individual's contract of employment, but it must be in writing. The opt-out agreement can last for a fixed period or indefinitely. Any opted-out worker can cancel the opt-out by giving at least seven days' notice, unless the opt-out agreement provides for longer notice, which cannot exceed three months in any event. Even if a worker has agreed to opt out, they cannot be required to work excessively long hours if this creates a reasonably foreseeable risk to health and safety.

Where a worker has contracted out of the 48-hour week, the employer no longer needs to keep records showing the number of hours actually worked by the opted-out individual. In these circumstances only, a list of those who have opted out is necessary.

Under the Regulations, workers are entitled to regular breaks in the working day and rest periods between working days. Employers must provide that rest periods can be taken, but there is no need to ensure they are actually taken. The rest period is in addition to annual leave and can be paid or unpaid.

*The full regulations and further guidance are in the 'Employment Matters' section of the Department for Business, Innovation and Skills website at [www.bis.gov.uk/employment](http://www.bis.gov.uk/employment).*