

Hours of Work

The Organisation of Working Time Act 1997 states that the maximum average working week for many employees cannot exceed 48 hours. This does not mean that a working week can never exceed 48 hours; it is the average that is important.

The average may be calculated in one of the following ways:

- Over 4 months for most employees
- Over 6 months for employees working in the security industry, hospitals, prisons, gas/electricity, airport/docks, agriculture and employees in businesses which have peak periods at certain times of the year such as tourism.
- Over 12 months where there has been an agreement between the employer and the employees to this effect. The agreement between employer and employees must be approved by the Labour Court.

The calculation of 48 hours does not include annual leave, sick leave or maternity/adoptive/parental leave.

The legislation also lays down rules for night workers, minimum breaks and rest periods. There are also special provisions in relation to Sunday working – see below.

Exceptions

The provisions of the Organisation of Working Time Act 1997 on working time and rest periods do not apply to all employees. They do not apply to the Gardaí, Defence Forces, employees who control their own working hours or family employees on farms or in private homes. The working hours of young people under the age of 18 are regulated by the Protection of Young Persons (Employment) Act 1996.

There are separate regulations governing the working time of trainee doctors (SI 494 of 2004) and employees working at sea.

Employees employed in transport activities (SI 20 of 1998) and in certain categories of civil protection services (SI 52 of 1998) are currently exempt from provisions on maximum average working week and statutory rest breaks/periods.

Provision of Information regarding Working Hours

For many employees the hours of work are specified, for example, in their contract of employment or in an ERO or REA. If the hours of work are not specified, under Section 17 of the Act, the employer must notify the employee of the starting and finishing times at least 24 hours before the first day or the day of each week the employee is required to work. The employer can do this by putting up a notice in a conspicuous place in the employee's workplace on a day when the employee is working. If the employee is required to work additional hours the 24 hours' notice must be given in the same way. However, in unforeseen circumstances such as another employee off work sick, the employer can ask the employee to work at less than 24 hours' notice.

Sunday working

The entitlement to extra pay for working on Sundays may be agreed between employee and employer. Under the Organisation of Working Time Act, if there is no agreement about pay, the employer must give one or more of the following for Sunday working:

- A reasonable allowance
- A reasonable pay increase
- Reasonable paid time off work

What is reasonable depends on all the circumstances. It is a matter for negotiation between employer and employee and, where applicable, a trade union. Some guidance may be obtained by referring, where possible, to an agreement applying to comparable employees elsewhere in similar employment.

Overtime

Overtime is work done outside normal working hours. There is no statutory obligation on employers to pay employees for work completed in overtime. Many employers pay employees higher rates of pay for overtime. The contract of employment should state if an employee is required to work overtime and the rates of pay applicable for it. Certain sectors of employment were covered by Employment Regulation Orders and Registered Employment Agreements and may have higher rates of pay for overtime.

Records

Under the Organisation of Working Time (Records) (Prescribed Form and Exemptions) Regulations 2001, an employer is required to keep detailed records of your working hours.

Breaks

Under the Organisation of Working Time Act, Employees are entitled to the following breaks:

- 15 minutes paid after 4½ hours completed
- A break of no less than 30 minutes after 6 hours completed
- Breaks issued at the end of a shift do not satisfy the requirement