

Working Time Regulations

Part 1

Overview

The following are some of the most commonly asked questions about working time in the police service. The relevant provisions, the Working Time Regulations 1998, implement the European Working Time Directive. This Directive is based on the need to ensure a better level of protection of the safety and health of workers.

This fact sheet should be viewed in conjunction with Working Time Regulations Part 2 which includes night work and annual leave, remedies and records.

Do the Working Time Regulations apply to police service?

The Regulations make express provision for police service and clearly apply. The Regulations do provide for the exclusions of various rights in certain circumstances, some of which may from time to time apply. However, in view of the health and safety basis of the Regulations, it is anticipated that the exceptions will be interpreted in a very limited manner.

What is working time?

Working time is any time during which a worker is working, at the employer's disposal and carrying out the employer's activity or duties and any period during which the worker is receiving relevant training and any additional period which is to be treated as working time under a relevant agreement. The determination for Regulation 22 Police Regulations 2003 now provides that time spent in travel, outside of rostered duty hours and not already covered by the travelling time treated as duty provisions, to and from duty at a place other than the normal place of duty; and time spent in travel to and from training courses other than at the usual place of duty are to be treated as working time.

What is a workforce agreement?

A workforce agreement is an agreement between an employer and workers or their representatives which modifies or excludes the application of the Regulations. In a police context it may be made between the chief officer and a Joint Branch Board.

Don't the Police Regulations already provide for rest periods and rights which are more favourable than the minimum standard set out in the Working Time Regulations?

The Police Regulations do provide some limitations on the organisation of working time. However, in certain respects the Working Time Regulations provide worthwhile improvements and additional guarantees.



What happens if the Police Regulations conflict with the Working Time Regulations?

Where the right under the Police Regulations is more favourable then that will apply. Where the Working Time Regulations provision is more favourable then that will take precedence.

Rest periods and daily/weekly rest

What rest breaks am I allowed while at work?

The Working Time Regulations provide that where daily working time is more than six hours there is an entitlement to a rest break. A minimum uninterrupted period of twenty minutes is allowed. The right under Police Regulations to a break of between 30 and 60 minutes depending on the length of the shift will generally be more favourable.

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What rest periods am I allowed between hours of duty?

You are entitled to a rest period of not less than eleven consecutive hours in each twenty-four hour period. Thus there should be a period of at least eleven hours between finishing duty and restarting, unless an exemption applies.

A quick change over in a shift pattern is subject to the eleven hour entitlement to daily rest unless:

- The duties you undertake involve succeeding another officer at the same workstation according to a certain pattern. This is thought unlikely to apply to many police officers; or
- The right has been modified in a workforce agreement between the chief officer and the Joint Branch Board.

What weekly rest periods am I entitled to?

The Regulations provide for an entitlement to an uninterrupted rest period of no less than twenty-four hours in each seven day period. At the chief officer's discretion this can be provided in the form of two uninterrupted periods of at least twenty-four hours in each fourteen day period or one uninterrupted rest period of not less than forty-eight hours in such fourteen day period.

On the face of it this entitlement is less than the entitlement to two rest days per week under the Police Regulations. There may however be occasions when a particular shift pattern or the exigencies of duty result in a failure to meet this entitlement. If this occurs there will be a breach of the Regulations unless an exemption applies.

I am required to be "on call" outside duty hours. Does this breach the Working Time Regulations?

Unless the time spent on call is agreed in a workforce agreement to be working time, it is not generally likely to fall within the definition of working time, unless there is a requirement to remain at a specific location (a requirement to be ready and able to return to work is unlikely to be sufficient). However, where an officer is called when on call this is likely to be working time. If the call results in a failure to provide an entitlement to uninterrupted rest, then the Regulations will be breached unless an exemption applies.

What limits apply to my weekly working hours?

The Regulations provide for a maximum weekly working time which shall not exceed an average of forty-eight hours for each seven days. The average is to be calculated over a reference period which, in the absence of a workforce agreement, will be a rolling period of seventeen weeks. Provision is made for the treatment of annual leave, sick leave and maternity leave which are excluded from the calculation. An individual worker can opt out from this limit but cannot be required to do so nor can they be penalised for refusing to do so.

Mandatory ACAS Early Conciliation

If you are thinking about making an employment tribunal claim, you will first need to notify details of your claim to ACAS, who will then offer early conciliation to try to resolve the dispute. The conciliation period can be up to one month. If the claim does not settle, ACAS will issue a certificate confirming that the mandatory conciliation process has concluded.

There are changes to time periods within which to lodge claims to allow for the period during which a claim is with ACAS. The period within which a claim is with ACAS will not count for calculation of time limits; and if the time limit would usually expire during that period, or within the month after the certificate is issued, then you will have up to one month following receipt of the conciliation certificate in which to lodge a claim.

The process makes the calculation of time limits in employment tribunal cases more complicated. Claimants are advised to be aware of limitation issues and seek legal advice promptly. For further information on the ACAS early conciliation process visit: www.acas.org.uk

Employment Tribunal Fees

You have to pay a fee when you file your claim in the employment tribunal. Fees are payable when you issue your claim and prior to a final hearing. A fee remission scheme is in place- see the employment tribunal website at www.employmenttribunals.service.gov.uk for further details. The booklet on the website "EX160A Court and Tribunal fees – do I have to pay them?" Provides details for claiming a remission of fees.

If you need further assistance, in the first instance please contact your local Joint Branch Board.

W: www.slatergordon.co.uk/policelaw

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