

# A guide for temporary and contract staff

## Working hours

The Regulations say that on average you should not be required to work more than 48 hours each week, unless you agree to do so in writing. Temporary or contract work is all about flexibility and from time to time, companies may want you to work for longer hours. For this reason we may ask you to work for more than 48 hours a week though of course you are under no obligation to do so.

If you agree to work more than 48 hours a week you will need to sign a 48 hour opt-out agreement. Please note that you cannot be forced to sign this agreement. You should also note that the maximum 48 hour week is an average number of hours. That average is worked out over a 17 week period (longer in some sectors). In other words, even if you have not agreed in writing to work more than 48 hours per week there may be some weeks when you do work longer than 48 hours. This is permitted provided that the average hours over a 17 week period do not exceed 48. It is also important to remember if you have been working for us for less than 17 weeks, the hours you work are averaged over the actual number of weeks you have been working.

If you are a young worker (at least 15 but have not yet reached 18) you may not work more than 8 hours a day or 40 hours a week. These hours cannot be averaged out and there is no opt-out available. However, you may work longer hours where it is necessary to either:

- maintain continuity of service or production, or
- respond to a surge in demand for a service or product, and

Provided that:

- there is no adult available to perform the task
- the client or recruitment consultancy ensures that your training needs are not adversely affected.

## Daily Rest

You are entitled to 11 hours rest from work in each 24 hours. If you are under the age of 18 you are entitled to 12 hours rest from work.

## Rest Breaks

The company to which you are assigned should allow you a break from work of 20 minutes if your assignment lasts for more than 6 hours a day. If it is practicable, you may take this away from your work station. Make arrangements with the client about rest/lunch breaks. If you are under 18 you are entitled to a rest break of 30 minutes if your assignment lasts more than 4 1/2 hours a day.

## Night Work

If you are asked to work at night (for a period including any 3 hours between 11pm and 6am) you should not work more than 8 hours in every 24, averaged over 17 weeks (or however many weeks you have worked if it is less than 17 weeks). In some cases where the work is hazardous or strenuous 8 hours night work in 24 is the absolute maximum you should work. If this is the case, we will tell you.

Similarly, if you are going to work at night you will be entitled to a free health assessment to make sure this will not damage your health. Initially we will ask you to complete a simple questionnaire to help assess this. If this raises any doubts as to your fitness for night work you may be referred to a qualified health care professional for further examination. The decision as to whether you are suitable for night work will be at our absolute discretion. It is vital that, if the client asks you to perform night work, you let us know so that we can comply with the law.

If you are a young worker you may work between 10 or 11pm to midnight and between 4am to 6 or 7am if you work in the following sectors:

- agriculture
- retail trading
- postal or newspaper deliveries
- a catering business
- a hotel, public house, restaurant, bar or similar establishment
- a bakery

The sectors where young workers may work through the night are:

- hospitals or similar establishments
- cultural
- artistic
- sporting
- advertising

Young workers in all other sectors may not ordinarily work at night between 10pm and 6am or between 11pm and 7am (if your contract provides for work after 10pm) unless it is necessary to maintain continuity of service or production, or respond to a surge in demand for a service or product.

## Weekly Rest

You are entitled to a minimum of 1 day's rest from work each week or 2 days every 2 weeks. If you are under 18 you are entitled to 2 days rest from work each week.

## Paid Annual Leave

From 1st October 2007 until the 31st March 2009 you annual entitlement will be 4.8 weeks pro rata. From 1st April 2009 your entitlement will increase to 5.6 weeks pro rata.

Your entitlement to payment for leave accrues in proportion to the amount of time worked continuously on Assignment during the leave year. For the period leading up to and including 31st March 2009 a worker will accrue holiday at a rate of 10.17% and 12.07% from 1st April 2009 on each hour/day they work on assignment.

In your first year with the agency you can only take paid annual leave in proportion to the amount of time you have actually worked. This does not however prevent you from taking unpaid leave. Paid leave must be taken after giving notice to the agency and them in turn agreeing. You are required to take your accrued annual leave entitlement before the end of your holiday leave year.

You will be paid your accrued holiday in one of two occasions;

- i. when you take paid holiday from the agency, or
- ii. when you finish working with the agency

Following the European Court of Justice ruling in Robinson Steele the payment of holiday pay in addition to your hourly pay (known as 'rolled-up' holiday pay) has been ruled as unlawful as it contravenes the EU Working Time Directive and workers must be paid holiday accrued at the time they take the leave. This ruling has been implemented by the department of Business, Enterprise and Regulatory Reform (formerly the DTI) and guidance from them is available from them. However the ECJ ruling in fact also stated that if a worker had in fact been paid his holiday entitlement in

addition to his hourly rate, he knew this was the case and the payment had been made in a comprehensible and transparent way, those payments could be set off against any holiday taken. In summary, therefore, your employment business should pay you for your holiday at the time it is taken but, if they do not and have instead paid holiday pay on top of your hourly rate, provided those payments are transparent and comprehensible they will be offset against any payment due for holiday you take.

You are required to take your paid annual leave entitlement before the end of the holiday year as it cannot be carried forward to the next holiday year. We cannot pay you holiday pay unless you actually take your holiday or finish working with us.

## Terms of Engagement

Our terms of engagement will set out:

- your annual leave year
- how holiday pay is calculated

The Working Time Regulations are health and safety regulations. Recruitment firms will want to ensure that temporary and contract staff benefit from the protection that the regulations offer. Obviously this is a very brief summary of the regulations. If you have any further queries ask your recruitment consultancy to help you.

This leaflet is produced by the Recruitment and Employment Confederation, the association for the recruitment industry. Members of the REC adhere to a Code of Practice and candidates can expect the highest standards of professional service.



***This publication is provided as guidance and is not a substitute for detailed advice on related matters and issues and should consequently not be taken as providing comprehensive legal advice on the topic or topics discussed.***

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