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Organisation of Working Time

The Law

The Organisation of Working Time Principal Law was put into force on 1 January 2003. The Law sets minimum health and safety requirements in relation to the organisation of employees' working time and applies to all enterprises, establishments and works of the private and public sector, except in relation to:

- the members of the Armed Forces
- the members of the Police Force and
- the seafarers covered by the Merchant Shipping (Organisation of Working Time of Seafarers) Law of 2003 (Law No. 79(I)/2003).

Specific activities and cases are exempted from certain provisions of the Law accordingly. An Amendment Law concerning the powers and duties of the Inspectors was put into force on 16 February, 2007.

Main provisions

The Law provides, among other things, for:

- the minimum daily and weekly rest periods
- the annual leave
- the break time
- the maximum weekly working time
- night work
- shift work
- the pace of work.

These provisions only set minimum levels regarding the employees' rights in relation to the organisation of working time and in no case do they affect more favourable working conditions provided for by legislation, collective agreements or otherwise.

Daily and weekly rest periods

An employee is entitled to at least eleven uninterrupted hours of rest each day (in twenty-four hours). An employee is entitled to a minimum period of twenty four uninterrupted hours of rest weekly. Provided the employer so decides, an employee may have in a period of 14 days:

- either two separate rest periods of 24 uninterrupted hours each
- or
- an uninterrupted rest period of 48 hours.

Annual leave

All employees are entitled to at least 4 weeks annual leave yearly. More specifically, those working five days a week are entitled to a minimum of 20 working days annual leave and those working six days a week are entitled to a minimum of 24 working days annual leave. The annual leave may be substituted by monetary compensation only in the case of termination of employment.

Rest intervals

Where working time exceeds six hours on any day, an employee is entitled to a rest interval of at least 15 minutes during which the employee may leave his workstation. Such intervals shall not be taken after the start or immediately before the end of the working day.

Maximum weekly working time

Subject to any other Laws or Regulations providing for more favourable arrangements for workers, working time in any week may not exceed 48 hours on average, including overtime. The reference period for calculating the average weekly working time is set over a period of four months. Periods of paid annual leave and sick leave are not taken into consideration in estimating the average weekly working time. In case an employer requests from an employee to work longer than 48 hours on average (over the 4 month reference period), this is only possible following the employee's consent. The employee is not subjected to any adverse consequences by his/her employer if he/she does not accept to perform such work.

In case, following the employee's consent, the maximum weekly working time (48 hours) is exceeded, the employer should:

- keep up to date records with the names of employees engaged in such work
- make these records available to the Ministry of Labour and Social Insurance with all details of the employees and their consent (if requested) to engage in work exceeding 48 hours weekly.

The Minister may restrict or prohibit the possibility of exceeding the maximum weekly working hours for reasons of health and/or safety of the employees involved.

Night work

Night time means the period commencing at 11 o'clock at night and ending at 6 o'clock in the morning of the following day. In order to be regarded as a "night worker", a worker:

- during night time, must work at least three hours of his/her daily working time as a normal course,

or

- is likely to work, during night time, for at least 726 hours of his/her annual working time, provided that no smaller number of hours is provided by collective agreements.

The employee's total daily working time shall be taken into account for the calculation of the above hours, provided that it includes at least three hours during the period between 11 o'clock at night and 6 o'clock in the morning of the following day, regardless of the time his shift begins or ends, and the worker performs his/her work in at least 7 consecutive working hours.

Duration of night work

The working time of a night worker shall not exceed on average eight hours for each twenty-four hour period, within a period of one month, or in such other period as may be provided for in any collective agreement. The minimum weekly rest period of 24 hours provided for by this Law shall not be taken into consideration in calculating the average.

A night worker, whose night work entails specific risks or significant physical or mental stress, shall not work at night for more than eight hours in any twenty-four hour period.

Work entailing specific risks or significant mental stress, where not determined by legislation or collective agreement, shall be agreed by consultation between the employer and representatives of workers or their representatives on health and safety matters, in accordance with the written assessment of risks which shall include any risks related to night work that the employer is required to provide in accordance with the Law and the Regulations made thereunder.

Health and safety during night work

- An employer who employs night workers on a regular basis shall inform the Ministry of Labour and Social Insurance of the fact in writing.
- An employer shall take all necessary measures to ensure that shift workers and night workers enjoy such protection in relation to their health and safety, as is appropriate to the nature of their work.
- An employer ensures that before any worker commences night work, and at regular intervals thereafter, the worker undergoes, free of charge, the necessary medical examinations in order to ascertain whether they are suitably fit for the specific work they will be performing.

Derogations

Subject to the general principles of the protection of the safety and health of workers, certain derogations from the provisions of the Law may be possible in relation to:

- rest intervals
- daily and weekly rest periods
- maximum weekly work time and
- duration of night work.

Such derogations apply to workers whose working time is not measured or predetermined or may be decided by the workers themselves, in particular in relation to:

- management executives or other persons with autonomous decision-making powers
- family workers
- workers officiating at religious ceremonies in places of worship and religious communities
- medical practitioners under training (in this case special provisions apply).

According to the Law, derogations from certain articles of the Law may be adopted by means of collective agreements or agreements between the employers and the employees' representatives provided that equivalent periods of compensatory rest are afforded to the workers concerned or that in exceptional cases where this is objectively assessed not made possible, appropriate protection is afforded to workers in activities and cases set out by the Law.

Special provisions

The Law includes special provisions and exemptions for mobile workers.

Pace of work

An employer who intends to organise work according to a certain pattern shall take into account the general principle of adapting work to the worker, with a view in particular to alleviating monotonous work and work at a predetermined rate, depending on the health and safety requirements, and especially regarding rest intervals.

Inspection

The Minister of Labour and Social Insurance may employ inspectors and/or officers in order to ensure proper application of the Law. The Amendment Law (2007) provides for the power and duties of the Inspectors. Anyone obstructing an Inspector while exercising his/her duties, is liable to imprisonment up to three months or to a fine not exceeding €5.125 or to both penalties.

Competent Court

The Labour Disputes Court is authorized to deal with the settlement of disputes of a civil nature relating to this Law.

Offences and penalties

Breach of this Law by the employer constitutes a criminal offence and is subject to a sentence of up to one year imprisonment or a fine up to €3.417 or both.