

THE ORGANISATION OF WORKING TIME LAW OF 2002

LAW 63(I)/2002

1. This Law may be cited as the Organisation of Working Time Law of 2002.

2. In this Law, unless the context otherwise requires –

“adequate rest” means the real situation in which workers have regular rest periods, the duration of which is expressed in units of time and which are sufficiently long and continuous to ensure that, as a result of fatigue or other irregular working patterns, workers do not cause injury to themselves, to fellow workers, or to others and that workers do not damage their health, either in the short term or in the long term;

“competent authority” means the Minister of Labour and Social Insurance.

“Law” means the Health and Safety at Work Laws, 1996 to 2002.

“Minister” means the Minister of Labour and Social Insurance.

“mobile worker” means any worker employed as a member of travelling or flying personnel by an undertaking which operates transport services for passengers or goods by road, air or inland waterway;

“night time” means the period commencing at 23.00 hours on any day and ending at 06.00 hours on the following day;

“night worker” means any worker who –

(a) during night time, works at least three hours of his daily working time as a normal course; or

(b) is likely during night time to work at least 726 hours of his/her annual working time, provided that no smaller number of hours is provided by collective agreements. The total daily working time of the worker shall be taken into account for the calculation of the above hours provided that it includes at least three hours during the period between 23:00 on any day and 06.00 hours on the following day, regardless of the time that his shift begins or ends, and that the worker performs his work in at least 7 consecutive working hours;

“offshore work (at open sea)” means any work performed mainly on or from offshore (open sea) installations (including drilling rigs), directly or indirectly in connection with the exploration, extraction or exploitation of mineral resources, including hydrocarbons, and includes diving in connection with such activities, whether performed from an offshore installation or a vessel;

“rest period” means any period which is not working time;

“shift work” means any method of organising group work whereby workers succeed each other at the same work positions according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks;

“shift worker” means any worker whose work schedule is part of shift work;

“week” means the period of seven days commencing at 00:01 hours on a Monday and ending at 24:00 hours on the following Sunday;

“worker” includes a medical practitioner under training;

“working time” means any period during which a worker is at work, at the employer’s disposal and carrying out his activities or duties, in accordance with the arrangements in force for the category of worker to which he belongs.

3.–(1) This Law provides for the minimum health and safety requirements in connection with the organisation of working time.

(2) This Law applies to –

(a) The minimum periods of daily and weekly rest and annual leave, to rest intervals and to the maximum weekly duration of work, and

(b) certain aspects of night work, shift work and work patterns.

(3) Subject to subsection (4) below and sections 16 and 17 of the present Law, this Law applies to all private or public businesses, establishments, undertakings and private public sector activities within the scope of section 3 of the Law.

(4) This Law shall not apply in relation to

(a). The members of the Armed Forces

(b). the members of the Police Force

(c). the seafarers covered by the provisions of the Merchant Shipping (Organisation of Working Time of Seafarers) Law of 2003.

(5) The provisions of this Law shall apply fully to the matters referred to in subsection (2) above subject to more restrictive or specific provisions relating to those matters provided for in this Law.

4.–(1) A worker shall be entitled to a minimum daily rest period of 11 consecutive hours in each 24-hour period.

(2) The 24-hour period starts on 0.01 on any day and ends at 24.00 hours the same day.

5.–(1)(a) Where working time exceeds six (6) hours on any day, a worker shall be entitled to a rest interval.

(b) A rest interval shall be a continuous period of at least 15 minutes during which the worker may leave his workstation. Such intervals shall not be taken immediately after the start or immediately before the end of the working day.

(2) The technical details of the rest intervals to which a worker is entitled in accordance with subsection (1) above, including their duration and the terms under which they are to be taken, shall, if they are not regulated by collective agreements or by legislation, be agreed by consultation between the employer and representatives of the workers at the level of the undertaking concerned.

6.–(1) Subject to subsection (1) of section 4 of the present Law, every worker shall be entitled to a minimum weekly rest period of 24 consecutive hours in each week.

(2) The minimum 24-hour rest period may be reduced if this is justified by objective or technical reasons or due to the conditions concerning the organisation of work.

(3) If his employer so decides, a worker shall be entitled to either –

(a) two rest periods of 24 consecutive hours each in any fourteen-day period, or

(b) one continuous rest period of a minimum of 48 hours each 14 days.

7.-(1) Subject to any other Law or Regulations providing for more favourable arrangements for workers, the working time in any week may not exceed 48 hours on average, including overtime.

(2) Annual leave with pay and sick leave shall not be taken into account or shall be neutral in calculating the average.

(3) The reference period shall be four months.

(4) Subject to the general principles of the protection of the health and safety of workers, subsections (1), (2) and (3) of the present section shall not apply, if –

(a) The worker consents to perform the work concerned;

(b) the worker is not subjected to any adverse consequences by his/her employer if he/she does not accept to perform such work;

(c) the employer keeps up to date records of all workers engaged in such work;

(d) the records are placed at the disposal of the Competent Authority which may prohibit or restrict the possibility of exceeding the maximum weekly working hours for reasons of the health and/or safety of the workers;

(e) the employer provides the competent authority at its request with information regarding the consent of the workers.

8.-(1) All workers are entitled to annual leave with pay of at least four weeks in accordance with the terms provided for by legislation or collective agreements and/or practice related to this right and to the provision of the annual leave.

(2) The minimum period of annual leave with pay may be replaced by financial compensation only in the case of termination of the employment of the worker concerned.

9.-(1) 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 twenty-four hour period of weekly rest provided for by section 6(1) of the Law shall not be taken into account in calculating the average.

(2) 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.

(3) Where it is not determined by legislation or collective agreement, work which entails specific risks or significant physical or mental stress to workers shall be agreed by consultation between the employer and representatives of workers or their representatives on health and safety matters, in accordance with the provisions of the Law and the written assessment of risks which shall include any risks related to night work.

10.-(1) An employer shall ensure that before any worker commences night work for the first time, 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 that they will be performing.

(2) Where after any medical examination provided for in subsection (1) above it is proved that night workers have any health problems caused by night work, they shall

be transferred, when possible, to day work to which they are suited.

(3) A person shall not disclose the results of any medical examination carried out under subsection (1) above to any other person except to the worker concerned, unless such worker gives his/her written consent to further disclosure of such results.

11.-(1) In relation to night work by a young person, the relevant provisions of the Protection of Young Persons at Work Law of 2001 shall apply.

(2) In relation to night work by pregnant women, the relevant provisions of the Convention of 1990 for Night Work (Ratification) Law 1993, shall apply.

(3) In relation to night work by workers other than those falling within subsection (1) or (2) above, for whom specific measures are required in addition to the general measures in relation to their work, the risks related to night work shall be specifically taken into account in the written assessment of the risks that the employer is required to provide in accordance with the Law and the regulations made thereunder.

12. An employer who employs night workers on a regular basis shall inform the competent authority of that fact in writing.

13. 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 and that the services, the protection and prevention measures for the health and safety of such workers are equivalent to those applicable to other workers, and are available at all times.

14. 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 pre-determined work rate, depending on the type of activity, and health and safety requirements, especially regarding rest intervals.

15. This Law shall not apply where other legislative provisions, which do not contravene with the *acquis communautaire*, include more specific requirements in relation to the organisation of working time for particular occupations or activities.

16.-(1) Subject to the general principles on the protection of the health and safety of workers, sections 4, 5, 6, 7 and 9 of this Law shall not apply to workers whose working time is not measured or predetermined or may be decided by the workers themselves, due to the particular character of their activities, in particular in relation to –

(a) Managing executives or other persons with autonomous decision-taking powers;

(b) family workers; or

(c) workers officiating at religious ceremonies in places of worship and religious communities.

(2) Subject to any legislative provisions in force, derogations from sections 4, 5, 6, 7(3) and 9 of this Law are allowed by means of collective agreements or agreements between employers and representatives of workers, on condition that the workers concerned are afforded equivalent periods of compensatory rest or that, in exceptional cases in which it is not possible, for objective reasons, to grant such equivalent periods of compensatory rest, the workers concerned are afforded appropriate protection.-

(a) Activities involving the element of distance between the worker's place of work and his place of residence, such as offshore work, or where the worker's different places of work are distant from one another;

(b) security and surveillance activities requiring a permanent presence in order to protect property and persons, particularly the activities of security guards and caretakers or security firms;

(c) activities involving the need for continuity of service or production, particularly-

(i) services relating to the reception, treatment and/or care provided by hospitals or similar establishments, including the activities of medical practitioners under training, residential institutions and prisons;

(ii) the work of dock and airport workers;

(iii) press, radio, television, cinematographic production, postal or telecommunications services, ambulance, fire or civil defense services;

(iv) gas, water and electricity production, transmission and distribution, household refuse collection and incineration plants;

(v) industries in which work may not be interrupted for technical reasons;

(vi) research and development activities;

(vii) agricultural work;

(viii) work involving the transport of passengers on regular urban lines;

(d) where there is a foreseeable increase in work activity, particularly in –

(i) agriculture;

(ii) tourism; or

(iii) postal services;

(e) in the case of persons working in the railway transport sector-

(i) whose activities are intermittent;

(ii) who spend their working time on board trains, or

(iii) whose activities are linked to transport timetables and to ensuring the continuity and regularity of traffic.

(f) in cases of incidents caused by circumstances beyond the employer's control, abnormal or unforeseeable circumstances, the consequences of which could not be prevented despite the taking of all reasonable care;

(g) in the case of accident or imminent risk of accident:

Provided that the derogation from section 7(3) shall not result in a reference period exceeding six months.

Provided further that, subject to the general principles relating to the health and safety of workers, any reference periods not exceeding in any case twelve months may be determined by means of collective agreements, or agreements between employers and representatives, or workers for objective or technical reasons or for reasons of organisation of work.

(3) Derogations from Sections 4 and 6 of this Law are allowed, subject to the same

provisos, terms and conditions provided for in subsection (2) above, in relation to –

(a) Shift work, each time the worker changes shift and cannot take daily or weekly rest periods between the end of one shift and the beginning of the next one;

(b) any activities involving two or more separate periods of work in a day, particularly those of cleaning staff.

(4) Medical practitioners under training shall be excluded –

(a) from the provisions of section 7, subject to the same provisos, terms and conditions provided for in subsection (2) above until 31st July 2004;

(b) from the provisions of section 7 for a further transitional period of five years from 1st August 2004 and during that transitional period –

(i) the number of weekly working hours shall in no case exceed 58 hours on average during the first three years of that transitional period, 56 hours on average during the following two years and 52 hours on average thereafter;

(ii) the employer shall hold consultations in good time with the representatives of workers in order to achieve, if possible, an agreement concerning the arrangements to apply during the transitional period. Such agreement may cover, within the limits set out in subparagraph (i) above,

- the average weekly working hours during the transitional period; and
- the measures to be taken in order to reduce the weekly working hours to 48 hours on average by the end of the transitional period;

(c) from the provisions of subsections (2) and (3) of section 7 of this Law on condition that the reference period shall not exceed twelve months, during the first part of the transitional period referred to in paragraph (b)(1) of section 4(1) above.

17.-(1) The provisions of sections 4, 5, 6 and 9 shall not apply to mobile workers.

(2) The right of mobile workers to adequate rest, where not regulated by other legislation, shall be regulated by collective agreements or by agreement between employer and workers at the business, establishment or undertaking concerned, with the exception of any circumstances provided for in paragraphs (f) and (g) of section 16(2).

(3) Subject to the general principles relating to the protection of the health and safety of workers, where any objective or technical reasons or reasons related to the organisation of work so justify, the reference period mentioned in section 7(3) of this Law shall be extended to 12 months for mobile workers and workers who carry out mainly offshore activities.

18. Subject to the provisions of this section, the Labour Disputes Court shall have exclusive jurisdiction to determine any dispute of a civil nature.

19. Any employer who contravenes the provisions of this Law shall be guilty of a criminal offence and shall be liable, on conviction, to imprisonment not exceeding one year or to a fine not exceeding two thousand pounds or to both such penalties.

20. The Minister may appoint inspectors and other officers, if he deems it necessary, for the more effective application of this Law.

21. The provisions of this Law provide for the minimum rights of workers and do not affect more favourable terms of employment under any other legislation, or under any collective agreement or otherwise.

22.-(1) The Council of Ministers may make regulations for the more effective application of the provisions of this Law.

(2) Without prejudice to the generality of subsection (1) above, any regulations made under this section may –

(a) Provide for the duties and/or powers of inspectors and/or other officers appointed under section 20 of this Law;

(b) provide for any issue which needs or is required to be regulated.

23. This Law shall come into force on 1st January 2003.