

# A guide for companies using temporary or contract staff

## Paid annual leave

All workers are entitled to accrue the statutory minimum holiday pay from the first day of working through a particular recruitment consultancy.

From 1st October 2007 until the 31st March 2009 a worker's annual entitlement will be 4.8 weeks pro rata. From 1st April 2009 a workers entitlement will increase to 5.6 weeks pro rata.

All workers are required to give notice before taking paid annual leave, wherever possible periods of annual leave requested during the course of an assignment will be agreed with you.

Following the European Court of Justice ruling in **Robinson Steele** the payment of holiday pay in addition to a workers 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.

For further information on this matter and to use the online holiday entitlement calculator please visit :

<http://www.businesslink.gov.uk/bdotg/action/layer?topicId=1079427399&r.s=sl>

## 48 Hour Limit on Working Week

On average, workers should not work for more than 48 hours in a week. However, they may agree in writing to work for longer. Temporary workers will need to agree to work longer than the 48 hour week in writing with the recruitment consultancy.

The 48 hour limit is averaged out over 17 weeks (longer in some sectors), so there is some flexibility in the legislation. You should nevertheless make sure your recruitment consultancy knows in advance if temporary staff are likely to work for more than 48 hours particularly

if those staff are new. In the first 17 weeks of a worker's "employment" the average working hours are calculated over the actual period that the worker has worked. For example, if a worker works 46 hours in week one and 50 hours in week two (making an average of 48 hours in the two weeks) and the assignment with you terminates, this will be within the law. But if a new worker works three 50 hour weeks in his/her first assignment, through you, and

that assignment then terminates, the Regulations will have been breached unless he/she has agreed to work more than 48 hours.

Young Workers (at least 15 but have not yet reached 18) 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, they 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 employer ensures that the training needs of the young worker are not adversely affected.



## Rest Breaks

All workers whose working day is longer than 6 hours are entitled to a rest break of 20 minutes. For young workers the rest break should be 30 minutes in a day lasting more than 4 1/2 hours. Ideally all workers should be able to take this break away from their work station. Recruitment consultancies will need to discuss with you about the provision of rest breaks - especially if you have an agreement with unions or your workforce governing this.

The regulations do not require that the rest breaks are paid.

## Night Work

On average, night workers should not work for more than 8 hours in any period of 24. Night work will be any 3 hours between the hours of 11pm and 6am. Again there is an averaging period of 17 weeks, so you should let the recruitment consultancy know if night workers are likely to exceed these limits. If night work involves heavy mental or physical strain, there is an absolute limit of 8 hours night work in every 24.

## Working Time

Young workers may work between 10 or 11pm to midnight and between 4am to 6 or 7am if they are 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 throughout 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 unless it is necessary to maintain continuity of service or production or respond to a surge in demand for a service or product.

Recruitment consultancies will need your assistance in assessing whether work involves heavy mental or physical strain. If your own risk assessment indicates this you should make the recruitment consultancy aware.

## Daily Rest

All workers are entitled to 11 hours daily rest in 24 (12 hours for young workers).

## Weekly Rest

All workers are entitled to a minimum of 1 complete day of rest per week or 2 days every 2 weeks (2 days a week for young workers).

## Working Time Regulations

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. To do that they will need the co-operation of client firms such as yours.

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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