

# working hours



**flac**

promoting access to justice

march 2009

## Maximum weekly working time

The maximum average working week is 48 hours. This does not mean that a working week can never exceed 48 hours but it is the **average** that is important. A 48-hour net maximum working week can be averaged according to the following rules:

- a **Over 4 months**, for most employees.
- b **Over 6 months** for employees such as those working in the security industry, hospitals, prisons, gas/electricity, airport/docks, agriculture and employees in businesses which have peak periods at certain times of the year such as tourism.
- c **Over 12 months** where there has been an agreement between the employer and you to this effect (such an agreement must be approved by the Labour Court).

**Net maximum working week:** For the purposes of calculating this, the accumulation of 48 hours does **not** include breaks, annual leave, sick leave or maternity / adoptive / parental leave. Working time is **net** working time i.e. exclusive of breaks, on call or stand-by time.

## Minimum breaks in the working day

- The general rule is that you are entitled to a break of **15 minutes** in a 4 ½-hour work period and a break of **30 minutes** in a 6-hour work period.
- There is **no entitlement** to payment for such breaks.
- There are **exceptions** to the general rule: Shop employees who work more than 6 hours and whose hours of work include 11.30 am to 2.30 pm are entitled to a one-hour consecutive break which must occur during those hours.

Employees who work in the Retail Grocery Trade (Nationwide) and the Retail Footwear and Drapery Trade (Dublin only) are entitled to a 15 minute paid break (exclusive of the main meal break) if working more than 4½ hours.

- Your employer can be exempt from providing the breaks where it is not possible due to exceptional circumstances or an emergency.

## Rest periods

You have a general entitlement to:

- **11 consecutive hours daily rest** per 24-hour period.
- One **period of 24 consecutive hours rest per week** preceded by a daily rest period (11 hours).
- Alternatively, your employer can give you two 24-hour rest periods in a week that follows a week where you did not get this entitlement. The two rest periods must occur within the second 7-day period; they need not be combined.
- Rest period(s) should include a Sunday.

Your employer can be exempt from providing these rest periods if this is not possible due to exceptional circumstances or an emergency.

## Night work

Night time is defined as the period between midnight and 7 am the following day. Night workers are employees who normally work at least 3 hours of their daily working time during night time and the annual number of hours worked at night equals or exceeds 50% of their annual working time.

### **Maximum night working time:**

Generally this is calculated as 48 hours per week averaged over 2 months, or over a longer period specified in a collective agreement which must be approved by the Labour Court.

- There is an absolute limit of 8 hours in a 24 hour period during which night workers perform night work where this work involves special hazards or heavy physical or mental strain.

### **Sunday premium**

This is a matter for agreement between you and your employer. If not already included in the rate of pay, you are entitled to supplementary payment for hours worked on Sunday which will be equivalent to the closest applicable collective agreement which applies to the same or similar employment as yours and which provides for a Sunday premium.

The premium can be in the form of:

- Added payment
- Time off in lieu
- A portion of shift premium
- Unsocial hours premium

### **Holidays**

All workers whether full-time, part-time, temporary or casual, earn holiday entitlements from the time their employment starts.

Holiday pay is earned against time worked.

You are entitled to:

- a **4 working weeks** in a leave year in which you work at least 1,365 hours (unless it is a leave year in which you change employment) or,
- b **1/3 of a working week** per calendar month within which you work at least 117 hours or,
- c **8% of the hours** you work in a leave year (but subject to a maximum of 4 working weeks).

### Public Holidays

Employees, other than part-time employees, have an immediate entitlement to public holiday benefits. Part-time employees qualify for public holidays entitlement provided they have worked at least 40 hours during the five weeks ending on the day before a public holiday. There are currently 9 public holidays in Ireland which are as follows:

- New Years Day (1 January)
- St Patrick's Day (17 March)
- Easter Monday (Variable)
- The first Monday in May
- The first Monday in June
- The first Monday in August
- The last Monday in October
- Christmas Day (25 of December)
- St Stephen's Day (26 of December)

Good Friday is **not a public holiday**. While some schools and businesses close on that day, there is no automatic entitlement to time off work on that day.

In respect of each public holiday, an employee is entitled to either:

- (a) a paid day off on the holiday **or**
- (b) a paid day off within a month of the holiday **or**
- (c) an extra day's annual leave **or**
- (d) an extra day's pay

**as the employer may decide.**

An employee may ask his/her employer at least 21 days before a public holiday, which of the alternatives will apply. If the employer fails to respond at least 14 days before the public holiday, the employee is entitled to take the actual public holiday as a paid day off.

### Records

Your employer is obliged to keep records of holidays and public holidays worked for a period of 3 years. These records must be available for inspection by a labour inspector and must also be maintained to show as evidence in the event of a Rights Commissioner or Labour Court investigation of a complaint by an employee. Employers who fail to keep records are guilty of an offence and are liable on summary conviction to a fine not exceeding €1,900.

In the event of a claim, the onus is on the employer to demonstrate compliance with the Act where records have not been kept.

### Zero hours

If you are sent home when things are quiet or are requested to be available for work on a certain day and are not then asked to work, you might be entitled to compensation.

Where you suffer a loss by not working hours you were requested to work or to be available to work, the zero hours provision ensures that you are **compensated for 25% of the time** for which you are required to be available or **15 hours pay** whichever is the lesser.

## Children

- A child **over 14 years** may be permitted to do light work during school holidays, for a maximum of 35 hours per week, a maximum of 8 hours a day and only between 8 am and 8 pm. A child over 15 years may also do such work for up to 8 hours a week during school term. Any child under 16 years may be employed in film, theatre, sports or advertising activities under license from the Minister for Enterprise, Trade and Employment.
- **Children under 16** must also be given 30 minutes break if working more than four hours. If working during the summer holidays, they must get two days off in every week which should be consecutive as far as is practicable.
- **16 and 17 year olds** are in general allowed to work maximum 8 hours per day, 40 hours per week and only between 6 am and 10 pm. They must receive a 30 minutes break if working more than 4½ hours and two days off in every seven, which should be consecutive as far as is practicable.



## Exceptions

There are some exceptions to the maximum working time rules, including employment where you are:

- A member of the Defence Forces or the Garda Síochána
- Controlling your own working hours
- A family employee working on a farm or in a private house

Any sector or business may be exempted from the maximum working time rules by collective agreement approved by the Labour Court.

**Collective agreements** to vary rest times may be drawn up between management and a trade union or other representative staff body in any business, organisation or enterprise. However, equivalent compensatory rest must be provided to the employees concerned.

There is an automatic exemption from the rest provisions for **shift workers** when they change shift and for workers on split shifts. Equivalent compensatory rest must be given within a reasonable period of time.

## Complaints

If you have a complaint about a breach of working hours rules or collective agreements, you should inform a Rights Commissioner **within 6 months** of the dispute occurring by contacting:

The Secretariat  
Rights Commissioner Service  
The Labour Relations Commission  
Tom Johnson House  
Haddington Road  
Dublin 4  
Tel: 613 6700 (01 area)  
1890 220 227 (outside 01 area)  
Fax: 01-613 6701  
Email: [rightscomm@lrc.ie](mailto:rightscomm@lrc.ie)  
Website: [www.lrc.ie](http://www.lrc.ie)  
There is also an on-line enquiry form.

For further information you may also contact:

National Employment Rights Agency (NERA)  
O'Brien Road  
Carlow  
Tel: 059 917 8800  
LoCall: 1890 80 80 90  
Email: [info@employmentrights.ie](mailto:info@employmentrights.ie)  
Website: [www.employmentrights.ie](http://www.employmentrights.ie)

**Legal Aid:** If you are a person of moderate means legal advice may be available from a Legal Aid Board solicitor on a matter of working hours, although the Law Centres cannot provide representation before the Employment Appeals Tribunal (EAT) or a Rights Commissioner. The Board's offices are called Law Centres and are located around the country. For the location of your nearest Law Centre and for further information, LoCall 1890 615 200.

All those who are granted legal advice and/or legal aid must pay a fee called a contribution to the Board. The minimum contribution is €10 for legal advice and €50 for legal aid. The law centre staff will advise a person of the actual contribution in each individual case.

As of 1 September 2006 the new **disposable income** limit of a person applying for legal aid has been increased from €13,000 up to €18,000 per year.

The **maximum allowance** (this is an expense which the rules allow you to deduct when calculating your disposable income) on childcare facilities if you are working is €6,000 per child per year. The maximum allowance on accommodation costs (e.g. rent) is now €8,000 per year.

The value of an applicant's home and its normal contents are excluded when assessing the value of his/her capital resources (property), as are the value of the tools of an applicant's trade.

For details of other allowances, contact the Legal Aid Board or your local Law Centre.

## FLAC Mission Statement:

FLAC is an independent human rights organisation dedicated to the realisation of equal access to justice for all. It campaigns through advocacy, strategic litigation and authoritative analysis for the eradication of social and economic exclusion.

*While every effort has been made to ensure the accuracy of this leaflet, it is provided for general legal information only and is not intended as a substitute for legal advice. FLAC does not accept any legal liability for the contents of this leaflet. Persons with specific legal problems should consult a solicitor.*

Funded and supported by

Citizens **Information** Board



**Free Legal Advice Centres**

13 Lower Dorset Street  
Dublin 1

**LoCall:** 1890 350 250

**Tel:** 01 874 5690

**Email:** [info@flac.ie](mailto:info@flac.ie)

**Website:** [www.flac.ie](http://www.flac.ie)