

Unite guide for members

Shift work and night work



Unite guide to shift work and night work

– a health and safety issue for Unite members

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Important

This leaflet cannot cover everything and issues may differ depending on a range of factors including the sector you work in, your workplace, and your personal circumstances. If in doubt you should take advice from your Unite representative or Regional Official.

This guide book is downloadable in PDF format from
www.unitetheunion.org/healthandsafety
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INTRODUCTION

A world increasingly working around the clock raises an issue which is of increasing concern for Unite – the health and safety implications for members who work shifts and at night.

Research has shown that nearly 20% of the working population in Europe and North America is engaged in shift work, which is most common in healthcare, manufacturing/industrial, transport, communications, and the hospitality sectors. The Labour Force Survey estimated in 2005 that 3.6 million people in Britain (14% of the workforce) work shifts "most of the time".

Many thousands of Unite members work shifts, including nights, sometimes by choice, but often because they are obliged to under their contract, or for economic reasons.

There are many types of shift pattern and there is no optimal system of shift working: while some people adapt well to one type of shift pattern, others may find it difficult. HSE guidance Managing Shift Work states, for example, in relation to night work:

"Only a limited number of workers can successfully adapt to night work. Try to find alternatives to night work for those workers who cannot adapt. Where possible, permanent night shifts should be avoided."

Many other factors may be relevant to shift working: relevant legislation such as the Working Time Regulations, which employment sector you work in, family and social situations, and personal health issues.

This guide is designed to highlight health and safety issues arising from shift working and night working, give an overview of the official advice and relevant legislation and

provide advice to members when negotiating agreements and other arrangements to help prevent injury and ill-health.

Note on enforcement of working time legislation

Responsibility for ensuring compliance with the working time legislation on night work lies with the body that also enforces compliance with health and safety requirements in your workplace. For most workers, this will be either HSE (for industrial and other "higher-risk" premises) or your Local Authority (for many so called "lower-risk" premises such as shops and offices). In some areas of transport, specialist regulators will be responsible for workplaces with relevant workers – ORR for railways, the CAA for aviation and VOSA for road transport.

These bodies ensure compliance with the night working hours limits for both adult and young workers, the right to be offered a health assessment, the requirements in relation to special hazards in night work (including heavy physical or mental strain) and the transfer of night workers to day work under certain circumstances, compensatory or adequate rest, and supervision of night work by young workers under regulation 27A Working Time Regulations where necessary.

If you need information or advice on these aspects of the working time legislation, contact the Pay and Work Rights Helpline first (0800 917 2368 or <https://www.gov.uk/pay-and-work-rights-helpline>). They will usually be able to help you, but can refer you to HSE or the relevant enforcing authority if need be.

UNITE ISSUES – SOME SECTOR EXAMPLES

Civil Aviation

Shift working issues are exacerbated by the working environment of Unite cabin and flight crew members. They have to deal not only with unsocial and often long hours but also changes to their body clock caused by crossing time zones. Unlike ground based workers, cabin and flight crew are not covered by the normal working time regulations and they may be asked to work up to 22-23 hours without a break. Though this should be compensated with an extended rest period where they are working on long haul flights, this does not apply to short haul. Members are also increasingly under pressure to undertake aircraft cleaning and ground duties to cut costs and speed up aircraft turnaround. Due to these pressures crew do not achieve a rest break.

Unite is campaigning for an extension of turnaround times on health and safety grounds, and for an amendment to the Civil Aviation (Working Time) Regulations 2004 to ensure compulsory breaks for cabin crew are taken free from any duty and away from passengers.

Construction

The working conditions and health and safety of crane operators on construction are often adversely affected by excessive hours and fatigue. Unite worked within the Strategic Forum for Construction to produce joint guidance Tower Crane Working Conditions Best Practice Guidance (2008). This leaflet is of interest to everyone, in particular crane operators and members working on construction sites. It gives advice on timing of shifts (they should not

start before 7am and take into account the operator's commute to work time), a requirement to provide a relief operator where necessary and many other issues including a table showing recommended hours of work and rest breaks for crane operators and another showing the minimum number of operators required for a given number of tower cranes in continuous use on site.

Road transport and logistics

According to the HSE publication, Managing Shiftwork (2006) "sleepiness is thought to be the cause of up to one in five accidents on major roads in the UK, contributing to the approximate 3,000 roads deaths recorded annually". Mobile workers which include Unite driver members in passenger transport and logistics are covered by a number of regulations, in particular the Road Transport (Working Time) Regulations 2005 which provide inadequate protection for drivers.

There is a clear problem with the increase in shift working, due to the increased use of just-in-time systems. Also, employers are increasingly trying to get shift patterns which avoid peak congestion times, especially in the mornings. This is resulting in drivers increasingly starting earlier than 06:00. The time period between 02:00 and 06:00 is recognised as being the most likely period for road transport accidents. Although the figures are variable, in 2006 30.6 per cent of HGV accidents occurred between 02:00 and 06:00. Yet this period accounts for only 16 per cent of the total daily hours.

Offshore Workers

Workers spend 14 days offshore and will cover either a 12 hour day shift or night shift for each consecutive day, working an 84 hour week. When there are maintenance requirements workers may have to extend that working shift. Sometimes there has to be sickness or holiday cover and this can result in a worker being offshore for up to 21 days on the same shift pattern.

Passenger Transport

For bus and coach workers it is not only working a night shift which is the problem. It is also the length of break between shifts. Under UK Domestic Rules a bus driver can have as little as 8.5 hours between shifts three times a week. In reality this means the driver is getting less than 6 hours' rest a day when commuting time etc is taken into account.

WORKING SHIFTS SHOULD NOT MEAN THAT YOUR HEALTH SHOULD BE COMPROMISED

There is growing evidence to suggest that shift work, particularly night shifts, is bad for workers' health and safety. Tired workers are more likely to make mistakes which may have serious consequences not just for them but for others. An increasing number of research studies have shown that shift work and work at night can have adverse health effects such as gastrointestinal disorders, heart disease, and cancers. HSE research on the Burden of Occupational Cancer reinforced the findings of earlier studies by confirming that 54% of cancer registrations in women are attributable to shift work (breast cancer).

There are a host of other considerations which can affect shift workers. Long working hours, shift work and night work can have a significant effect on the health of new and expectant mothers, and on breastfeeding. Unsocial working hours can also have an adverse effect on family and social life.

When employers organise and plan shift work they must comply with employers'

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general duties under the Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations, in addition to the Working Time Regulations. There are also industry specific regulations and guidance for example in civil aviation, inland waterways, professional drivers.

Employers have legal duties to provide a safe and healthy workplace for men and women, and this duty may apply to working hours.

This includes carrying out risk assessments into shift patterns, identifying hazards and putting control measures in place, and complying with specific legal requirements such as providing health assessments for night workers.

It is important for Unite safety representatives to work together and with other members and their employer to ensure that health and safety law is complied with and the risks are managed effectively.

THE HEALTH EFFECTS OF WORKING SHIFTS

Research has identified the undesirable consequences for men and women working extended shifts and outside normal working hours particularly during the night or with early morning starts.

1. Biological effects

- Cardiovascular disorders
- Gastrointestinal disorders – including disturbance of appetite and digestion
- Disruption of the internal biological clock – the “circadian rhythms”.

What are the “circadian rhythms”?

The human body follows a daily rhythm which involves the fluctuation body functions, with regular peaks and troughs over a 24 hour period. These are called circadian rhythms and they regulate body functions such as temperature, metabolism, digestion, blood pressure, secretion of adrenalin, sleeping and waking. These processes form the body's internal clock and result in high activity (peaks) during the day and low activity (troughs) at night.

2. Psychosocial effects

- Sleep loss and fatigue
- Lowered performance
- Increased accidents
- Stress – especially if work schedules are inflexible and worker has less control

3. Individual effects

Disrupted family and social life, for example isolation from friends, family, social events and celebrations of birthdays and anniversaries, sports matches etc.

Other health effects may be:

- Reliance on sleeping pills, or stimulants such as coffee

- Drug and alcohol misuse
- On the hormonal system in both men and women which may result in other health effects, such as the disruption of the menstrual cycle for women.

All workers are potentially at risk if they do shift work – and some groups may be even more so:

- Young workers and older workers
- New and expectant mothers – women of childbearing age
- Workers with pre-existing health conditions or disabilities e.g. heart disease, sleep apnoea
- Workers taking medication e.g. the effectiveness of insulin for diabetics may be affected by changing routines
- Temporary, agency or contract workers who may not be used to shift work and may not be aware of their legal rights.

Cancer and shift work

Research has also increasingly linked shift work to the development of cancers.

A review of evidence in 2003 by the Health and Safety Executive (HSE) identified a possible link between shift working and breast cancer in women.

Then the International Agency for Research on Cancer (IARC) announced in late 2007 that “shiftwork involving circadian disruption is probably carcinogenic to humans” and classified shift work as category 2A carcinogen. By way of comparison, other category 2A carcinogens include substances such as inorganic lead compounds, and acrylamide.

IARC said “Epidemiological studies have found that long-term night workers have a

higher risk of breast cancer risk than women who do not work at night. These studies have involved mainly nurses and flight attendants.”

The HSE backed research *The Burden of Occupational Cancer* published in 2010 reinforced the findings of earlier studies by confirming that 54% of cancer registrations in women are attributable to shift work (breast cancer).

Workers' compensation for breast cancer arising from shift work

The Danish Government has paid workers' compensation to a number of women workers, some of whom worked as flight attendants, who had developed cancer as a result of working shifts.

The Industrial Injuries Advisory Council in Britain has published two Position Papers dealing with the association between shift working and breast cancer, the most recent

one being in May 2013. So far it has declined to prescribe breast cancer arising from shift work as an industrial disease but is continuing to monitor the research.

Action must be taken at work to protect men and women shift workers

It is important to remember that this is not an issue which affects only women.

Men and women alike may be at risk from doing shift work. Research has also found, for example, an increased incidence of prostate cancer in men who work shifts. Other health conditions, such as heart disease, can affect both men and women.

Employers are on notice that working shifts may cause harm to their employees and the crucial point is to ensure that the health and safety risks of doing shift work and night work are managed effectively for everyone.

HSE's guidance **Managing Shift Work (HSG256)** recommends a maximum shift length of 12 hours.

While there may be occasions (e.g. emergency situations) where it is necessary for longer hours to be worked this should not be the normal accepted practice. It is difficult to give a precise guideline on maximum hours per week, but in general no one should be allowed to work more than 5-7 consecutive days and where long hours are worked ideally there should be at least one rest day each week. This translates to an absolute maximum of 84 hours per week (i.e. 7 x 12 hour shifts), but 72 hours is a more realistic maximum (i.e. 6 x 12 hour shifts plus one day of rest). Employers should also consider very carefully any situation where workers are approaching this level of working time in any one week.

In cases where workers or others may be at increased risk, e.g. where they operate potentially dangerous machinery or drive vehicles, the shift length and hence the working week should be considerably shorter than this.

Remember that an employee who has opted out of the WTR still can only work a maximum of 78 hours a week and must have 11 hours' continuous rest between shifts, and one full day off in 7 or 2 days in 14. But a 'night worker' cannot opt-out of the night work limit.

SUGGESTED GUIDELINES FOR SHIFT DESIGN

- Plan an appropriate and varied workload.
- Offer a choice of permanent or rotating shifts and try to avoid permanent night shifts.
- Either rotate shifts every 2-3 days or every 3-4 weeks - otherwise adopt forward rotating shifts.
- Avoid early morning starts and try to fit shift times in with the availability of public transport.
- Limit shifts to 12 hours including overtime, or to 8 hours if they are night shifts and/or the work is demanding, monotonous, dangerous and/or safety critical.
- Encourage workers to take regular breaks and allow some choice as to when they are taken.
- Consider the needs of vulnerable workers, such as young or ageing workers and new and expectant mothers.
- Limit consecutive work days to a maximum of 5 -7 days and restrict long shifts, night shifts and early morning shifts to 2-3 consecutive shifts.
- Allow 2 nights' full sleep when switching from day to night shifts and vice versa.
- Build regular free weekends into the shift schedule.

SUGGESTED GUIDELINES FOR THE WORK ENVIRONMENT

Employers should

- Provide similar facilities as those available during the daytime – such as a canteen – and allow shift workers time for training and development.
- Ensure temperature & lighting is appropriate and preferably adjustable.
- Provide training and information on the risks of shift work and ensure supervisors and management can recognise problems.
- Consider increasing supervision during periods of low alertness.
- Control overtime, shift swapping and on-call duties and discourage workers from taking second jobs.
- Set standards and allow time for communication at shift handovers.
- Encourage interaction between workers and provide a means of contact for lone workers.
- Encourage workers to tell their GP that they are shift workers.
- Provide free health assessments for night workers.
- Ensure the workplace and surroundings are well lit, safe and secure.

WHAT CAN UNITE SAFETY REPS DO?

If your employer operates shift systems or decides to change shift work systems, Unite members can use our rights to negotiate relevant, effective policies relating to health and safety and shift work.

Health and safety legislation requires employers to assess and manage the risks

associated with shift work, and employers must also consult with employees on health and safety matters.

Safety reps could suggest that a working party of all interested groups including safety reps should be convened – perhaps working through existing structures such as the safety committee.

GETTING THE INFORMATION ABOUT RISK FACTORS

Accident and ill-health records may reveal information – e.g. are there more accidents on particular shifts? Is there more sickness absence on particular shifts?

Do a confidential survey on the theme “when do you feel most tired at work?” “which shifts are hardest, and why?”

Carry out a special inspection about shift working and working hours: talk to members and invite them to share their experiences.

Are there any other issues specific to your workplace or your members which is relevant to shift working?

PRACTICAL ISSUES FOR SAFETY REPS TO CONSIDER WITH MEMBERS WHEN NEGOTIATING AGREEMENTS

Ensuring that members are consulted about working hours and their preferences are taken into account so far as possible.

Ensuring risk assessments on shift working are done in consultation with workers to identify hazards and control measures.

This may include considering the following factors:

Hours

Maximising the number of weekends off.

When doing rotating shifts providing time off between finishing night shifts and starting morning shifts.

Avoiding split shifts.

Overlapping shifts to ensure that vital information is passed from one shift to the next.

Making sure shift patterns are predictable and not changed at short notice.

Encouraging safe strategies for driving to and from work after shift working.

Training

Ensuring the same access to training for both day and night workers.

Providing training and information about the risks associated with shift work.

Job design and work organisation

Considering issues such as:

Job design.

Rotation of jobs – which may help to overcome boredom and fatigue.

Workload.

Job enlargement: expanding the range of tasks undertaken by individuals to allow more flexibility and the development of more skills.

Welfare and other issues to be considered

Ensuring regular rest and meal breaks.

Ensuring adequate lighting, ventilation and meal breaks at all times, 24 hour access to canteens providing healthy food options, rest rooms and sanitary and washing facilities.

Ensuring that appropriate health

assessments are offered to workers before they start night work and then on at least an annual basis.

Ensuring a secure work environment to control the risks from issues such as violence, lone working, and safe travel home for night workers.

Identifying individual health issues as appropriate (respecting confidentiality). For example do any workers have sleep disorders or other conditions which may be relevant to shift working?

Taking account of special groups such as women of childbearing age; pregnant workers and new mothers.

Considering members' caring and family responsibilities outside work.

A BRIEF INTRODUCTION TO RELEVANT LEGISLATION

Health and Safety at Work etc Act 1974

Every employer must ensure the health, safety and welfare at work of all their employees – so far as reasonably practicable – and this includes the management of shift work and night work.

Under the Health and Safety at Work Act (Sections 2 and 3) employers must not put their employees at risk from working excessive hours. This is because working excessive hours can put the health and safety of those workers at risk and others who may be affected by their activities. So, for example it is unacceptable to allow employees who have opted out of the

WTR to work excessive hours such that it affects their health and safety.

What defines excessive hours will depend on the circumstances. Some patterns of working e.g. night shifts or early morning starts will cause more fatigue than others. The demands of the work done will also affect the fatigue experienced and having sufficient time between shifts to allow adequate rest is critical. Therefore other factors such as time spent commuting also need to be considered, as these can also contribute to fatigue.

Safety Representatives and Safety Committees Regulations 1977

These confer a wide range of rights and functions on Unite safety representatives including requiring employers to consult safety representatives about all workplace

health and safety matters which affect those they represent, including shift work, and rights to information, representation, inspection and investigation.

Management of Health and Safety at Work Regulations 1999 as amended (the “Management Regulations”)

These regulations require the assessment and management of risks associated with shift work.

A five step approach to risk assessment is recommended:

1. Consider the risk
2. Establish systems to manage the risks of shift work
3. Assess the risks

4. Take action to reduce the risks

5. Check and review shift work arrangements regularly.

This can be applied to shift work.

A systematic approach to assessing and managing the risks associated with shift work (Source: HSG 256 Managing Shiftwork, HSE, 2006)

A systematic approach to assessing and managing the risks associated with shift work
(Source: HSG 256 *Managing Shift work*, HSE, 2006)

Consider the risks of shift work and the Benefits of effective management

What are the undesirable effects of shift work?
Consider the costs and benefits of effective management of shift working arrangements.

Establish systems to manage the risks of shift work

Seek management commitment to control the risks of shift work.
Identify individuals responsible for shift-working arrangements.
Involve safety representatives and workers.

Assess the risks associated with shift work

Consider the risks that workers may be exposed to.
Establish who might be harmed by shift work
Consult workers and their safety representatives.

Take action to reduce these risks

Assess how severe the risks are and identify where improvements need to be made.
Improve the shift-work schedule.
Improve the workplace environment.
Apply good practice guidelines.

Check and review your shift-work

Implement a system for early reporting of problems associated with shift work.
Monitor alterations to shift-work schedules and/or work conditions.
Periodically review the effectiveness of your shift-working arrangements.

Special risk assessments

The Management Regulations require special risk assessments to be undertaken and implemented in relation to women of childbearing age and young workers.

Information about the risks

Under the Management Regulations shift workers should be provided with clear and relevant information on risks to health and safety arising from shift work and on managing fatigue.

Equality issues

In addition, health and safety risk management and risk assessments should take into account other equality issues as appropriate, such as disability, gender, race, age, religious belief and sexuality.

Workplace (Health, Safety and Welfare) Regulations 1992 as amended

These regulations cover a wide range of requirements including provision of adequate lighting, toilet and washing facilities, wholesome drinking water, and rest and eating facilities for all workers.

HSE guidance recommends that rest areas should include appropriate facilities for nursing mothers to breast feed and to express and store milk.

Unite agreements should ensure that that facilities are provided to the same standard for all shift workers, both day and night.

Breaks – and welfare facilities

The Office of Rail Regulation (ORR) guidance Managing Rail Staff Fatigue (2012) on breaks states:

The “quality” of breaks is important. A food and drink preparation area, a quiet rest area at a suitable temperature and with suitable seating and with facility to talk to colleagues and to take a walk ... In the case of safety critical workers in night shift, the facility to take a short nap during a break can be especially beneficial. Naps of no more than 10 minutes are advisable if safety critical tasks are to be resumed within 20 minutes of waking. This is to avoid any grogginess on waking from a nap (“sleep inertia”).

Working Time Regulations 1998 (WTR)

The Working Time Regulations lay down the minimum legal requirements on how to organise working time. In addition, workers in the transport sector such as civil aviation*, rail and mobile workers in road and sea transport are subject to specific regulations relating to working time.

Guidance has also been published by various regulatory bodies including the Office of Rail Regulation and the Civil Aviation Authority.

Please see the Further Information list at the end of this guide.

* see also page 18

THE WORKING TIME REGULATIONS (WTR) AND SHIFT WORK

The WTR define a shift worker as:

Any worker whose work schedule is part of shift work.

The WTR define shift work as:

Any method of organising work in shifts whereby workers succeed each other at the same workstations, according to a certain pattern, including a rotating pattern, and which may continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks.

Limits on night work hours (see below) must be taken into account when shift working involves an element of night work, if this results in the worker being classed as a night worker, or if it has been agreed that this is the case.

Entitlement to daily and weekly rest periods for shift workers.

This applies as follows subject to the legal requirement for the employer to ensure that these workers receive compensatory rest (see below).

- (1) The daily rest period of not less than 11 hours (Reg 10(1) WTR – see below) does not apply to a shift worker when s/he “changes shift and cannot take a daily rest period between the end of one shift and the start of the next one”.
- (2) The uninterrupted weekly rest period of not less than 24 hours does not apply to a shift worker when s/he changes shift and “cannot take a weekly rest period between the end of one shift and the start of the next one”.
- (3) Neither of the above entitlements “apply to workers engaged in activities involving

periods of work split up over the day as may be the case for cleaning staff”.

Compensatory Rest (WTR Reg 22)

Shift workers must receive compensatory rest. The employer must “wherever possible” allow the worker to take “an equivalent period of compensatory rest”. The European Court of Justice has ruled that compensatory rest should be provided immediately after the end of the working period.

Adequate Rest

Mobile workers – normally transport workers – who work under the main Working Time Directive are excluded from the usual rest break entitlements under the Working Time Regulations. Instead, these workers are entitled to ‘adequate rest’.

‘Adequate rest’ means that workers have regular rest periods. These should be sufficiently long and continuous to ensure that fatigue or other irregular working patterns do not cause workers to injure themselves, fellow workers or others, and that they do not damage their health, either in the short term or in the longer term. Patterns of work: monotonous work and work at a pre-determined rate (WTR Reg 8).

The health and safety of some workers can be affected if the work they do is boring or monotonous or involves carrying out work at a pre-determined rate. This provision would apply in relation to workers who carry out a single task on a continuous basis, without the opportunity to leave their workstation or vary the manner in which the task is performed. Employers should ensure that workers whose work falls into this category are given adequate rest breaks to compensate. These breaks are in addition to the normal rest break.

WTR AND NIGHT WORK

The WTR include a number of relevant legal requirements which are relevant to working hours, breaks and shift work.

The definition of night time, night work and a night worker under the WTR Night time, in relation to a worker, means a period

- (a) the duration of which is not less than seven hours
- (b) which includes a period between midnight and 5 am

which is determined for the purpose of the WTR by a relevant agreement, or, in the absence of such an agreement, the period between 11 pm and 6 am.

Night work means work during the night time.

Night worker means a worker –

- (a) who as a normal course (i.e. on the majority of days on which s/he works) works at least three hours of their daily working time during night time, or
- (b) who is likely, during the night time, to work at least such a proportion of her/his annual working time as may be specified in a collective agreement or workforce agreement.

Night workers: a right to free health assessments

As there are health risks linked with night work, your employer must offer all night workers a free health assessment.

WTR Regulation 7(1) states

An employer shall not assign an adult

worker to work which is to be undertaken during periods such that the worker will become a night worker unless

- (i) The employer has ensured that the worker will have the opportunity of a free health assessment before he takes up the assignment or
- (ii) The worker had a health assessment before being assigned to work to be undertaken during such periods on an earlier occasion, and the employer has no reason to believe that that assessment is no longer valid.

What sort of health assessments should be provided?

Official online guidance on working time issues and health assessments for night workers is found for workers on the Gov.uk website.

Workers must be offered a free health assessment before they become a night worker and on a regular basis after that.

Employers can do this with a questionnaire to see if the worker is fit to work nights. They should ask a qualified health professional for help developing the questionnaire.

Unite advice on health assessments for night workers

A questionnaire is a useful starting point, but Unite believes that simply asking individuals to fill in a form does not constitute a “health assessment” and individual medical advice may need to be

obtained as appropriate once the form has been reviewed by a health professional.

Please note it is not compulsory for workers to take the health check.

If members complete a health assessment questionnaire and the answers cause concern, their employer should refer the person to a doctor. If a doctor tells them that they have health problems caused by night work, their employer must offer the member suitable other work for example transfer the individual to daytime work, if this is possible.

Mobile and road transport workers

Although they are excluded from some other working time protections, mobile and road transport workers who are night workers are entitled to health assessments.

Pregnant workers and new mothers

If a member becomes pregnant or is a new mother, and they are worried about the risks of night time work, they should speak to their employer about being moved to daytime work. The employer should give special consideration to this and also conduct a risk assessment. The duty to carry out risk assessment carries on throughout the pregnancy.

More information

Unite Women's Health, Safety and Wellbeing Negotiators' Pack

HSE guidance at
www.hse.gov.uk/mothers

Maternity Action website
www.maternityaction.org.uk/

Limits to working hours for night workers

A night worker's normal working hours must not exceed an average of 8 hours for each 24 hours, calculated over a 17 week rolling period.

Special hazards limit

There is an "absolute limit" of eight hours in any 24 hour period during which the night worker performs night work involving "special hazards or heavy physical or mental strain". This limit may be modified or excluded by a collective or workforce agreement.

It applies to work –

- Identified as such in a collective agreement or workforce agreement which takes account of the specific effects and hazards of night work; or
- Recognised in a risk assessment made by the employer under Regulation 3 of the Management of Health and safety at Work Regulations as "involving a significant risk to the health or safety of workers" employed by them.

Unite safety representatives should bear this in mind when engaging with their employer on risk assessment and should consider drawing up a list of workers who may be affected, taking into account not just specific hazards but also workers who may be engaged in work involving heavy physical or mental strain.

Young workers and night work

Under the Working Time Regulations a “young worker” is someone who is below the age of 18 and above the minimum school leaving age.

Young workers should not ordinarily work at night i.e. between 10pm and 6am, or between 11pm and 7am if the contract of employment provides for work after 10pm.

There are a number of exceptions, but there is an absolute prohibition on all work between midnight and 4am.

In addition, employers are required to carry out special risk assessments under the Management Regulations in relation to young workers, and working hours should always be considered as part of such assessments.

OTHER IMPORTANT PROVISIONS OF THE WORKING TIME REGULATIONS

Daily Rest*

Workers are entitled to a minimum 11 hours' uninterrupted rest between each working day. (see above for exceptions for shift workers).

Breaks*

Workers are entitled to a break of at least 20 minutes if they work for more than 6 hours. Breaks should be taken during the 6 hour period, not at the beginning or end of it.

Maximum weekly working time

Workers cannot be forced to work more than 48 hours a week on average. If you have signed an agreement to “opt out” and work more than 48 hours, you are entitled to write and tell your employer that you wish to opt back in. For advice on this please talk to your Unite workplace representative/Regional Officer.

Annual leave*

Since 1 April 2009 Workers – both full and (pro rata) part time – are entitled to a statutory minimum of 5.6 weeks (28 days for someone working a five-day week, including bank holidays). 28 days has become the maximum statutory holiday entitlement.

Changes to the employment contract

No alterations may be made to an employee's contractual terms without their consent. So if you don't have to do night work or shift work under your contract, your employer will need your agreement to make you change your hours. Unite advises that any changes agreed to your contract should be in writing.

Unite publishes a leaflet *Contracts of Employment*. Unite Guide for Members which is available both as a printed copy or downloadable from the website. If in doubt contact your Unite workplace rep or your Regional Officer for advice.

* see also page 18

Agency Workers

After working for 12 weeks in the same role for the same hirer, agency workers have the right to the same terms and conditions relating to working time as if they had been directly recruited by the hirer to do the same job.

Unite has published a bargaining guide to the Agency Workers Regulations 2010 which is available on line here:
[http://archive.unitetheunion.org/pdf/\(JN4160\)%20AWR%20Guide%20Brochure%20ewa's%20final.pdf](http://archive.unitetheunion.org/pdf/(JN4160)%20AWR%20Guide%20Brochure%20ewa's%20final.pdf)

or available in printed form from Unite Research Department.

Personal Injury Claims

As a Unite member you can obtain legal advice and assistance from the union's panel of solicitors if you suffer injury at work. Legal assistance is provided at no cost to you. You may be entitled to compensation if your employer is to blame for your injury or ill-health.

Unite only instructs expert lawyers. Last year, Unite won over £71 million in compensation for members who had been injured or become ill as a result of work, who had been discriminated against or unfairly dismissed.

To make a personal injury claim, please telephone Unite's panel solicitors directly on 0800 709 007 or telephone your local Unite office to be directly transferred to a Unite Solicitor. Time limits apply to all claims. Generally for an injury you have three years to start proceedings but the sooner you have legal advice and assistance the better. In many employment cases the time limit can be as short as three months.

* Civil Aviation

The working time of members working in civil aviation (when they are not assigned to ground duties) is governed by the Civil Aviation (Working Time) Regulations 2004 and the the Civil Aviation (Working Time) (Amendment) Regulations 2010.

Rest breaks

Cabin crew and pilots are entitled to rest breaks under the Civil Aviation (Working Time) Regulations. The CAA issued a safety notice in 2008 confirming that all airline operators must provide a 20 minute break in each 6 hour period worked. Regrettably some airline operators frequently do not provide the opportunity for crew to take their rest breaks, and the CAA is not using their powers to enforce rest breaks.

Annual leave

Cabin crew are currently entitled to 20 days' statutory leave. Unite is campaigning for this to be raised to bring it in line with the more generous provision for ground workers under the Working Time Regulations.

Rest Days

Cabin crew and pilots must have a minimum of 7 rest days per month and these must be notified (in writing) at the roster planning stage.

FURTHER INFORMATION

Unite health and safety resources can be downloaded direct from www.unitetheunion.org

Unite Women's Health, Safety and Wellbeing Negotiators' Guide available from Unite Equalities Sector, 128 Theobald's Road, London WC1X 8TN, from Susan.Murray@unitetheunion.org or downloadable from Unite website

Trades Union Congress health and safety resources: www.tuc.org.uk and go to health and safety pages

Hazards Magazine – the award winning health and safety magazine for safety representatives www.hazards.org

Factsheet on Shiftwork: While you were sleeping (Issue No 106, 2009).

Sheffield Occupational Health Advisory Service www.sohas.co.uk
Leaflet: Working Hours and Health (revised June 2007)

Health and Safety Executive:

HSE publication Managing Shift Work (HSG 256, 2006) ISBN 978 0 7176 6197 8. This costs £9.50 from HSE books, also available as a free download from the HSE website.

Other HSE web-based advice on shift work:

HSE web-based advice on shift work and fatigue: www.hse.gov.uk/toolbox/organisation/shiftwork.htm, www.hse.gov.uk/humanfactors/topics/fatigue.htm

HSE enforcement guidance for inspectors – managing fatigue risks
www.hse.gov.uk/humanfactors/topics/specific2.pdf

HSE operational circular – Working Time Regulations
www.hse.gov.uk/foi/internalops/ocs/001-099/1_6.htm

HSE Research Report RR446. The development of a fatigue risk index for workers including a calculator tool www.hse.gov.uk/research/rrhtm/rr446.htm

HSE research on the link between shift work and breast cancer
www.hse.gov.uk/research/rrhtm/rr132.htm

HSE Burden of Occupational Cancer in Great Britain – Research
www.hse.gov.uk/research/rrhtm/rr800.htm Includes reports on different types of cancers.

HSE guidance for pregnant workers and new mothers www.hse.gov.uk/mothers

ACAS: Guidance on Flexible work and work-life balance
www.acas.org.uk/media/pdf/4/n/Flexible-working-and-work-life-balance.pdf

Office of Rail Regulation: Managing Rail Staff Fatigue (2012)
www.rail-reg.gov.uk/upload/pdf/managing_rail_fatigue.pdf

International Agency for research into cancer

Press release <http://monographs.iarc.fr/ENG/Meetings/vol98-pressrelease.pdf>
Monograph <http://monographs.iarc.fr/ENG/Monographs/vol98/>

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