



---

## **Application of the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003 as amended**

**Notice to all Shipowners, Companies, Managers, Masters, and all crew on vessels ordinarily operating in inland waterways.**

*This notice supersedes MSN 1778 for Boatmasters and others working on commercial inland water transport vessels. It should be read in conjunction with the Regulations, and comes into force on 5 January 2018.*

---

### **Summary**

This Merchant Shipping Notice contains the detailed mandatory requirements specified by the Secretary of State under the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003, as amended by the Merchant Shipping (Working Time: Inland Waterways) (Amendment) Regulations 2017. It gives guidance on the application of the Regulations.

### **Key points**

- The Regulations apply to vessels (other than pleasure vessels) ordinarily operating in categorised waters.
- Employers of workers on vessels engaged in the carriage of passengers or cargo must comply with the daily, weekly, and annual limits on working time and daily and weekly minimum rest periods.
- The regulations apply to young persons (under the age of 18) except where the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998 provide a higher level of protection.
- Night work is limited and health and safety protection measures must be taken for night workers.
- The work schedule must allow rest days for workers, based on the number of days they have worked continuously, normally following immediately the period of continuous work.
- A rest break must be provided if the worker works for more than 6 hours continuously.
- Records must be kept to demonstrate compliance with the Regulations.
- Workers must be provided with at least 4 weeks paid leave per year, and also 1.6 weeks of additional leave (recognising that there should be an entitlement to leave for public holidays); each entitlement should be given pro rata for periods of employment of less than one year.
- Annual health assessments must be available at no financial cost to the worker.



- Special provision is made for passenger vessels during the tourist season.
- There is a provision for emergency situations.
- Workers may seek to enforce their entitlements through an employment tribunal (industrial tribunal in Northern Ireland).

## **1. Introduction**

1.1 The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003 (S.I. 2003/3049) as amended by the Merchant Shipping (Working Time: Inland Waterways) (Amendment) Regulations 2017 (S.I. 2017/1149) (“the Regulations”) lay down working time rules for workers in commercial inland waterways transport in accordance with European Directive 2014/112/EU, implementing the social partners’ agreement on working time for mobile workers in inland waterways.

## **2. Application**

2.1 These Regulations apply to any ship which:

- ordinarily operates in, and does not ordinarily go beyond, the limits of waters category A, B, C or D (as categorised in Merchant Shipping Notice MSN 1837 (M) Amendment 1); and
- is engaged in commercial transport of passengers or cargo.

2.2 Vessels operating inland of categorised waters should comply with the Working Time Regulations 1998 as amended.

2.3 The Regulations do not apply to pleasure vessels.

2.4 The Regulations apply to workers employed as a member of the travelling personnel of a ship to which the Regulations apply by an undertaking which operates services for passengers or goods.

2.5 Owner operators are not covered by the Regulations, even if they are considered as workers in their own business. Nor do the Regulations apply to those training in a sail training vessel or those who are not engaged in the navigation of, or have no emergency safety responsibilities on, such a vessel.

2.6 Workers under the age of 18 (young persons) are subject to stricter rules on rest periods (including weekly rest) and rest breaks in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998. Therefore, the corresponding provisions in the Regulations do not apply. See also MGN 473(M+F). It is stated in the relevant sections below where the regulation discussed does not apply to young persons. Unless explicitly stated, the regulation does apply to young persons who are workers as described in paragraph 2.4.

2.7 Although not governed by the Regulations, there are separate rules for those employing children under minimum school leaving age. <https://www.gov.uk/child-employment>

## **Additional Guidance**

*Area of operation:*

2.8 Some ships which operate in categorised waters also hold a seagoing certificate (e.g. EC Class C (restricted) or D (restricted) passenger ship certificate). In these cases, the



operator should follow the working time regime which is appropriate. Where the ship ordinarily operates in categorised waters then it will be the regime for inland waterways under these Regulations and where it is a sea-going ship within the meaning of the Merchant Shipping (Hours of Work) Regulations 2002 as amended (see MSN 1842(M)) then that regime will apply.

2.9 Workers must be protected by regulation of their working time. In cases where the applicable regime is unclear, because the ship works at the margins of categorised waters and sea, the decision on which regime is appropriate should be agreed between the employer and the workforce and recorded.

2.10 As far as practicable, individual workers should not be switched between different working time regimes, as inconsistent/irregular patterns of work are likely to induce fatigue.

2.11 Any workers not covered by these Regulations will, nevertheless, be subject to one of the following:

- the Merchant Shipping (Hours of Work) Regulations 2002 as amended (for seafarers on sea-going ships); or
- Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 as amended; or
- the Working Time Regulations 1998 as amended.

2.12 The Working Time Regulations 1998 as amended apply to any worker who does not travel with the ship or to anyone who works on an inland waterway vessel (i.e. a vessel operating solely in categorised waters) which is not engaged in inland waterways transport (i.e. not engaged in the carriage of cargo or passengers).

### **3. WORK, REST, NIGHT WORK AND SHIFT WORK**

#### Work and rest

“working time”, in relation to a worker, means—

- (a) any period, including overtime, during which he is working, at his employer’s disposal and carrying out his activity or duties,
- (b) any period during which he is receiving relevant training, and
- (c) any additional period which is to be treated as working time for the purpose of these Regulations under a relevant agreement;

“rest period” means a period which is not working time, other than a rest break or leave to which the worker is entitled under these Regulations;

“working day” means any 24 hour period that includes working time;

“rest day” means an uninterrupted rest period of 24 hours which the worker spends in a place of the worker’s own choosing;

“reference period” means 52 weeks, or, where the duration of the worker’s employment relationship is less than 52 weeks, the length of the worker’s employment relationship.

#### Night work

“night time” means the period between 11 p.m. and 6 a.m.;

“night work” means work during night time;

“night worker” means a worker—



- (a) who, as a normal course, works at least three hours of his daily working time during night time, or
- (b) who is likely, during night time, to work at least such proportion of his annual working time as may be specified for the purposes of these Regulations in a collective agreement or a workforce agreement,

and, for the purpose of paragraph (a), a person works hours as a normal course if he works such hours on the majority of days on which he works.

The requirements relating to a workforce agreement are set out at Annex 1.

#### Shift work

“shift work” means 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 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 involves shift work.

## **4. RIGHTS AND OBLIGATIONS CONCERNING WORKING TIME**

### **4.1 Maximum daily working time (Regulation 6)**

4.1.1 The employer must ensure that a worker’s working time does not exceed 14 hours in any 24 hour period. (However, see section 17 of this Notice.) This regulation does not apply to young persons. See MGN 473(M+F).

### **4.2 Maximum weekly working time (Regulation 6A)**

4.2.1 The employer must ensure that a worker does not work more than 84 hours in any seven day period. (However, see section 17 of this Notice.) This regulation does not apply to young persons. See MGN 473(M+F).

### **4.3 Maximum annual working time (Regulation 6B)**

4.3.1 The employer must ensure that a worker’s working time over any full year (any period of 52 weeks) must not exceed 2,304 hours. The maximum annual working time figure is calculated as follows:

$(A-B) \times C$

Where-

A is 52 weeks;

B is 4 weeks annual leave; and

C is 48 hours.

4.3.2 If the worker is employed for less than 12 months, their maximum working time must be calculated pro rata, as follows:

$(A-B) \times C$

Where-



A is number of weeks of employment;

B is 4 weeks annual leave (but reduced pro-rata to reflect employment for less than a year); and

C is 48 hours.

*Worked example*

A worker is employed for 13 weeks.

Within that time the worker is entitled to 1 week of annual leave.  
(Calculated as  $13/52 \times 4$  weeks of paid annual leave)

The maximum working time for that worker during their period of employment is  
 $(13 - 1) \text{ weeks} \times 48 \text{ hours} = 576 \text{ hours}$

#### **4.4 Maximum average 48 hour working week (Regulation 6C)**

4.4.1 The employer must ensure that a worker does not work more than 48 hours for any seven day period, averaged over the relevant reference period. (But see also section 4.5.) The reference period is normally 52 weeks, and means any period of 52 weeks. Where the period of employment is less than 52 weeks, the reference period is the length of the employment relationship.

4.4.2 The Regulations specify the formula for calculating average weekly working time as

$$\frac{(A + B)}{C}$$

Where: A is the total number of hours the worker has worked ("working time") during the course of the reference period  
B is the total number of hours the worker has worked between the end of the reference period and the period ending when the number of working days in that subsequent period equals the number of excluded days during the reference period; and  
C is the number of weeks in the reference period.

Annual and additional leave under regulations 11 and 11A, bank holidays if granted separately, sick leave, maternity, paternity, adoption and parental leave are counted as excluded days.

*Worked example:*

In a reference period of one year, the worker has worked 2180 hours, and taken 28 days of annual leave and 4 days of sick leave (total of 32 excluded days).

After the end of the reference period, the worker works six full 5-day weeks, and two extra days (total 32 days) working 7.5 hours a day (winter season).

A = 2180

B = 240 (32 x 7.5)

The workers average weekly working time is therefore  
 $\frac{(2180+240)}{52} = 46.5 \text{ hours}$



#### **4.5 Maximum average weekly working time where there are more working days than rest days (Regulation 6D)**

- 4.5.1 This provision applies in addition to the maximum weekly average for working time calculated over a full year, or over the duration of the seafarer's period of employment if that is less than a year. It is designed to protect workers from being required to work excessive hours during a busy season.
- 4.5.2 Where workers are scheduled to have more working days than rest days, an employer shall ensure a worker's average weekly working time shall not exceed 72 hours over a four month period. (However, see section 17 of this Notice).
- 4.5.3 This regulation does not apply to young persons. See MGN 473(M+F).

#### **5. HEALTH ASSESSMENTS (Regulation 7) AND HEALTH ASSESSMENTS FOR NIGHT WORKERS (Regulation 7A)**

- 5.1 Workers to whom these Regulations apply are entitled to an annual health assessment at no cost to themselves. This assessment should include identifying conditions or symptoms which could be as a result of work on board, particularly if the worker is only receiving the minimum rest periods or rest days under these Regulations.
- 5.2 In addition, a health assessment must be offered to any worker starting to work as a night worker (i.e. as a normal course, working at least three hours of their daily working time during night time – see definitions in section 3 of this Notice). "As a normal course" in this context means on the majority of working days. An opportunity for a free health assessment must be provided at regular intervals while they continue as a night worker.
- 5.3 A health assessment is confidential to the worker concerned, unless they give written consent to disclosure. However, a statement of whether the worker is fit for their duties is not subject to confidentiality. Any processing of personal data and/or sensitive personal data would need to comply with the Data Protection Act 1998, and any unauthorised disclosure of such data could be the subject of enforcement proceedings by an affected worker under that Act.

#### ***Additional guidance on health surveillance***

- 5.4 Under regulation 11 of the Merchant Shipping (Health and Safety at Work) Regulations 1997, there is a general provision for workers to be provided with health surveillance. The specific provision applying to mobile workers on inland waterways is regulation 7 of these (i.e. the amended 2003) Regulations and this requires that the assessment should be available annually.
- 5.5 Regulation 7A on health assessment for night workers is carried forward from the original version of the 2003 Regulations (regulation 7 in those Regulations).
- 5.6 The entitlement to health assessment (normally referred to as health surveillance in the UK) is separate from any requirement for a medical examination to establish a person's medical fitness to do the job (which for inland waterways in the UK is covered by the ML5 or ENG1 systems). The purpose of health surveillance is to establish whether a person's work is having any adverse effect on their health.
- 5.7 Workers are entitled to an annual health assessment at no cost to themselves. In the UK, occupational health surveillance must be provided by the employer, and is not available on the National Health Service. The need for health surveillance should be based on an





assessment of the risks to workers' health from the work that they do. The first step may be an employer questionnaire, drawn up on the basis of the employer's risk assessment, to establish whether workers suffer any ill effects on their health resulting from their work for the employer. Only if health impacts are identified does the worker need to be referred to a medical or occupational professional for assessment. Guidance on health surveillance is published in Chapter 7 of the Code of Safe Working Practices for Merchant Seafarers.

- 5.8 In a case of ill health that may be associated with work, the employer may seek advice from an occupational health professional who can determine if the complaint is related to work, provide advice on the nature of the complaint, its treatment and the potential for any long-term effects.

## **6. TRANSFER OF NIGHT WORKERS TO DAY WORK (Regulation 7B)**

- 6.1 Like night workers ashore, night workers in inland waterway transport have the right to be transferred to available day work for which they are suitable if they suffer from health problems as a result of night work. This applies if a registered medical practitioner has advised the employer that the health problems are connected to their work at night.

- 6.2 See 5.2 above for guidance on who is a "night worker" in this context.

## **7. LENGTH OF NIGHT WORK (Regulation 7C)**

- 7.1 The employer must ensure that no worker carries out more than 42 hours of night work during any seven day period.
- 7.2 Night work means working between the hours of 11 p.m. and 6 a.m. If a worker is working during part of the period between 11 p.m. and 6 a.m., only the hours worked in "night time" count as night work. For example, if a worker works from 4 p.m. to midnight for six days each week, they do one hour of night work each night and six hours in a seven day period.

## **8. SAFETY AND HEALTH PROTECTION FOR NIGHT AND SHIFT WORKERS (Regulation 7D)**

- 8.1 Night workers and shift workers must be provided with appropriate safety and health protection relevant to their work. For many workers, night work and shift work lead to disruption of the internal body clock, sleep disruption and fatigue, disturbed appetite and digestion, increased use of stimulants and social and domestic problems. While in the context of commercial transport it may be impossible to avoid altogether, careful consideration of the issues, and adoption of best practice can mitigate these effects. MGN 505(M) provides guidance on the risks of fatigue and ways to mitigate it. The Health and Safety Executive also publishes guidance on managing shift work in HSG256, available to download from their website [www.hse.gov.uk](http://www.hse.gov.uk). Extracts from this guidance are at Annex 2.
- 8.2 Employers should regularly review shift work and night work arrangements, including systems for reporting and investigating any problems that may occur. As some workers may be reluctant to report problems, it is important that employers emphasise and promote the benefits of early reporting. Masters could play a major role if they are encouraged to report early. The reporting process should be simple and straightforward and any reports dealt with in a timely manner.
- 8.3 If, as a result of review, changes are made to shift work and night work arrangements or environment, the employer should continue to monitor and review any changes on a



regular basis. Changes made may help to solve some problems but create new ones. Workers should be consulted on any changes proposed and the reasons for them. There is more guidance on how to carry out review and monitoring in HSG256. Employers should only do what is reasonably practicable for the size of their organisation.

8.4 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (as amended), require the employer to ensure that a competent person is available to provide protective and preventive services for their undertaking to ensure the health and safety of all workers, which includes night workers and shift workers.

## **9. PATTERN OF WORK (Regulation 8)**

9.1 In organising the pattern of work, the employer must consider the effects on the health and safety of workers employed by them, in particular where the work is monotonous or requires work at a predetermined rate. Where appropriate, the employer must ensure that the worker is given adequate rest breaks.

## **10. RECORDS (Regulation 9)**

10.1 The employer must keep records which are adequate to show whether the Regulations are being complied with in respect of -

- Maximum daily, weekly and annual working time
- Maximum average weekly working time
- Limitation on night work
- Adequate rest
- Minimum daily and weekly rest
- Rest days
- Annual leave
- Compensatory rest following an emergency
- Special arrangements for daily and weekly working time and rest days for passenger ships during the season.

10.2 They may serve other functions such as calculation of pay or record of leave provided that they meet the requirements above.

10.3 The records should be made available on board a ship until at least the end of the reference period used for calculating average weekly hours of work.

10.4 The minimum information to be recorded is -

- (a) the name of the ship,
- (b) the name of the worker,
- (c) the name of the master,
- (d) the date to which the record relates,
- (e) whether a day was a working day or a rest day, and
- (f) the beginning and end of the daily working or rest periods.

Provided there is an audit trail, time sheets may refer to other records for some of this information.





10.5 The records shall be examined and endorsed by the worker and the employer at an appropriate interval, and no later than the end of the month following the month to which they relate.

10.6 A copy of the endorsed records shall be given by the employer to the worker to whom they relate and that worker shall keep those records with them for one year.

10.7 In order to ensure that they are accurate, records of daily and weekly working time should be made as soon as practicable after work is carried out. This must be at the latest within the month following the relevant working period so that they can be checked and endorsed by the employer and the worker concerned.

## **11. REST PERIODS (Regulation 10)**

11.1 Every worker is entitled to adequate rest. This means that the worker has regular rest periods which are sufficiently long and continuous to ensure that, as a result of fatigue or other irregular working patterns, they do not cause injury to themselves, to fellow workers or to others and that they do not damage their health, either in the short term or in the longer term.

11.2 Each worker shall have rest periods of at least -

(a) 10 hours in each 24 hour period, of which at least six hours are uninterrupted; and

(b) 84 hours in any seven day period.

11.3 Although there is no requirement for one day off per week, as there is under the shore-based Working Time Regulations 1998 as amended, a worker cannot work their maximum daily working time (14 hours), or have their minimum daily rest (10 hours), for 7 days consecutively as this would breach the minimum weekly requirement for 84 hours of rest and the maximum weekly working time limit of 84 hours.

11.4 This regulation does not apply to young persons. See MGN 473(M+F).

## **12. REST BREAKS (Regulation 10A)**

12.1 Any worker whose daily working time exceeds six hours is entitled to a rest break.

12.2 The details of rest breaks are a matter for agreement between the employer and the workers. However, in the absence of a collective agreement or workforce agreement (see Annex 1), the break must be at least 20 minutes of uninterrupted rest and the worker is entitled to spend it away from their workstation if they have one. The rest break may be a meal break depending on the start and finish times of the workers' working time.

12.3 This regulation does not apply to young persons. See MGN 473(M+F).

## **13. WORKING DAYS AND REST DAYS (Regulation 10B)**

13.1 No worker may be required to work more than 31 days consecutively.

13.2 After a number of consecutive working days, the worker should immediately be allowed a minimum number of consecutive rest days. (However, see section 17 of this Notice.) The Regulations set out how the number of immediate consecutive rest days should be calculated:

—



- (a) for the 1st to the 10th consecutive working day: the worker is entitled to 0.2 rest days per consecutive working day (for example 10 consecutive working days = 2 rest days);
- (b) for the 11th to the 20th consecutive working day: the worker is entitled to 0.3 rest days per consecutive working day (for example 20 consecutive working days = 5 rest days); and
- (c) for the 21st to the 31st consecutive working day: the worker is entitled to 0.4 days per consecutive working day (for example 31 consecutive working days = 9.4 rest days).

13.3 Part days earned must be rounded up and granted only as full days.

*Example 1:*

Worker A regularly works 5 days a week.

After each 5 days work, they are entitled to  $5 \times 0.2$  rest days (1 rest day).

As they actually get 2 rest days, their working pattern meets the requirements of the Regulations.

*Example 2:*

Worker B regularly works 6 days a week, usually Monday to Saturday.

After each 6 days work, they are entitled to  $6 \times 0.2$  rest days (1.2 rest days). Under paragraph 13.3, this should be granted as 2 full days.

As they actually get 1 rest day (normally Sunday), their working pattern does not meet the requirements of the Regulations.

13.4 If the work schedule provides for at least as many rest days as working days, in addition to the immediate consecutive rest days the worker is entitled to in accordance with paragraph 13.2 above, they are also entitled to rest days equal to the number of days they have worked (less those taken immediately), which can be taken at another time so long as they are taken within the reference period.

13.5 In practice this means that after a period of continuous work, a worker whose contract provides for equal working and resting days must, as a minimum, take the number of rest days required under paragraph 13.2, but may take the remaining rest days to which they are entitled at another time (providing those remaining rest days are taken within the reference period).

13.6 This regulation does not apply to young persons. See MGN 473(M+F).

## **14. ANNUAL PAID LEAVE (Regulation 11 and 11A)**

14.1 Workers are entitled to 4 weeks of paid leave in each leave year (regulation 11), and also to 1.6 weeks additional leave in respect of public holidays (subject to an overall maximum of 28 days) (regulation 11A).

14.2 Where a worker works for a shorter period than a year, the paid leave entitlement must be calculated pro-rata.

14.3 The level of pay during paid annual leave provided for under regulations 11 and 11A should be at the worker's normal level of remuneration.



14.4 For those whose leave year has started before the 2017 Regulations come into force, their entitlement to additional leave in the current leave year is calculated pro rata for the remainder of the leave year after the coming into force date.

14.5 Detailed arrangements for leave, including the time at which leave is to be taken, is a matter to be determined between the worker and the employer. Annual leave under regulations 11 and 11A may be taken in instalments, and may not be replaced by a payment in lieu, except where the worker's employment is terminated.

14.6 Paid periods off work which form part of a worker's agreed pattern of work (eg two weeks on, two weeks off) may include paid leave, as well as rest days earned during the preceding work days while the worker is on board ship. The nature of this leave should be made clear in the contract. Entitlement to annual paid leave continues to accrue when workers are taking their scheduled rest days ashore as part of the agreed pattern of work.

## **15. ENTITLEMENTS UNDER OTHER PROVISIONS (Regulation 12)**

15.1 Statutory entitlements to rest periods or statutory paid leave under the Regulations and workers' rights under contracts of employment or other arrangements are not cumulative. The worker may opt for whichever entitlement is the most favourable.

## **16. EMERGENCY SITUATIONS (Regulation 14A)**

16.1 No provision of the Regulations shall prevent the master of a ship requiring a worker to perform any hours of work necessary:

- (a) for the immediate safety of the ship, any persons on board or the cargo; or
- (b) for the purpose of giving assistance to other ship or persons in distress,

until the normal situation has been restored.

16.2 Emergency situations would include the life-line services, for example where an inland waterway ship provides an out-of-hours service to transport an ambulance or patient for medical care.

16.3 In any safety critical situation, safety of life must be the priority. Fear of breaching the Regulations should never be a reason for not responding to an emergency. However, any work undertaken in an emergency should subsequently be recorded, and where scheduled hours of rest were not taken because of a safety critical situation, those who have worked during a scheduled rest period to respond to the emergency must be provided with the opportunity for an adequate rest period. This should be provided as soon as possible after the event to minimise the period of time during which they are working while tired.

## **17. SEASONAL WORK ON PASSENGER SHIPS (Regulation 15A)**

17.1 The employer may apply the provisions contained in this section to workers employed on passenger ships during the season, when it may not be possible to comply with the provisions explained in section 13 in respect of working days and rest days. However, stricter limits apply to working time during such periods.

17.2 For the purposes of this section, "season" means a period of no more than nine consecutive months out of 12 months in which activities are tied to certain times of the year as a result of external circumstances such as weather conditions or tourist demand.



17.3 Where these arrangements are applied,

- working time shall not exceed—
  - (a) 12 hours in any 24 hour period; and
  - (b) 72 hours in any seven day period;
- workers shall be credited with 0.2 rest days per working day; and
- at least 2 of the rest days earned under these arrangements must be granted during every period of 31 days; any remaining rest days shall be granted by agreement but must be taken within the reference period.

17.4 This regulation does not apply to young persons. See MGN 473(M+F).

## **18. REQUIREMENT FOR INFORMATION (Regulation 16)**

18.1 The MCA may require an employer to supply information about their workers who work at night. This may include the records of their working time, rest periods and rest breaks, any health assessment requested or carried out, and any measures taken to protect their safety and health. A requirement for information is most likely to occur in the event of a seafarer complaint to MCA or following a report of an incident or accident.

## **19. OFFENCES/REMEDIES (Regulation 17 and 18)**

19.1 MCA is the enforcement authority for employer/master duties. Breaches of these duties are criminal offences and may be prosecuted. More detail of these offences is set out in Annex 3. It is a defence for the defendant to show that all reasonable steps had been taken to ensure compliance with the Regulations.

19.2 In addition, if a worker considers that their entitlements under the Regulations (e.g. annual free health assessment, appropriate health and safety protection for night and shift workers, adequate rest, rest periods, rest breaks, rest days, annual leave and additional annual leave) are being denied, they may complain to an employment tribunal (industrial tribunal in Northern Ireland) or to the Advisory, Conciliation and Arbitration Service (ACAS) (Tel 0300 123 1100 or visit [www.acas.org.uk/](http://www.acas.org.uk/) or, if based in Northern Ireland, Tel 028 9032 1442 and [www.lra.org.uk](http://www.lra.org.uk) ).

19.3 Regulation 19 prevents any employer from imposing an agreement on his worker/s, in an attempt to “contract out” or exclude them from the effects or benefits of these Regulations. Any such clause in an agreement with a worker is made void by this regulation.



## More Information

Seafarer Safety and Health Branch  
Maritime and Coastguard Agency  
Bay 2/17  
Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG

Tel : +44 (0) 203 8172498  
e-mail: [mlc@mcga.gov.uk](mailto:mlc@mcga.gov.uk)

Website Address: [www.gov.uk/government/organisations/maritime-and-coastguard-agency](http://www.gov.uk/government/organisations/maritime-and-coastguard-agency)

General Enquiries: [infoline@mcga.gov.uk](mailto:infoline@mcga.gov.uk)

File Ref: MS 122/6/91

Published: December 2017  
Please note that all addresses and  
telephone numbers are correct at time of publishing

© Crown Copyright 2017

***Safer Lives, Safer Ships, Cleaner Seas***



**Workforce Agreements****Regulation 2(1) and Schedule 1**

1. The following are the conditions that must be satisfied for an agreement between an employer and workers employed by him or their representatives to constitute a workforce agreement for the purposes of these Regulations—

- (a) the agreement is in writing;
- (b) it has effect for a specified period not exceeding five years;
- (c) it applies either—
  - (i) to all of the relevant members of the workforce, or
  - (ii) to all of the relevant members of the workforce who belong to a particular group;
- (d) the agreement is signed—
  - (i) in the case of an agreement of the kind referred to in sub-paragraph (c)(i), by the representatives of the workforce, and in the case of an agreement of the kind referred to in sub-paragraph (c)(ii), by the representatives of the group to which the agreement applies (excluding, in either case, any representative not a relevant member of the workforce on the date on which the agreement was first made available for signature), or
  - (ii) if the employer employed 20 or fewer workers on the date referred to in sub-paragraph (d)(i), either by the appropriate representatives in accordance with that sub-paragraph or by the majority of the workers employed by him; and
- (e) before the agreement was made available for signature, the employer provided all the workers to whom it was intended to apply on the date on which it came into effect with copies of the text of the agreement and such guidance as those workers might reasonably require in order to understand it fully.

2. For the purposes of this Schedule—

“a particular group” is a group of the relevant members of a workforce who undertake a particular function, work at a particular workplace or belong to a particular department or unit within their employer’s business;

“relevant members of the workforce” are all of the workers employed by a particular employer, excluding any worker whose terms and conditions of employment are provided for, wholly or in part, in a collective agreement;

“representatives of the workforce” are workers duly elected to represent the relevant members of the workforce, “representatives of the group” are workers duly elected to represent the members of a particular group, and representatives are “duly elected” if the election at which they were elected satisfied the requirements of paragraph 3 of this Schedule.

3. The requirements concerning elections referred to in paragraph 2 are that—

- (a) the number of representatives to be elected is determined by the employer;



- (b) the candidates for election as representatives of the workforce are relevant members of the workforce, and the candidates for election as representatives of a group are members of the group;
- (c) no worker who is eligible to be a candidate is unreasonably excluded from standing for election;
- (d) all the relevant members of the workforce are entitled to vote for representatives of the workforce, and all the members of a particular group are entitled to vote for representatives of the group;
- (e) the workers entitled to vote may vote for as many candidates as there are representatives to be elected; and
- (f) the election is conducted so as to secure that—
  - (i) so far as reasonably practicable, those voting do so in secret, and
  - (ii) the votes given at the election are fairly and accurately counted.





**EXTRACTS FROM HSG256**  
**Managing shiftwork: Health and safety guidance**

**Table 11 Good practice guidelines for shift work schedule design**

Plan a workload that is appropriate to the length and timing of the shift.
If reasonably practicable, schedule a variety of tasks to be completed during the shift and allow workers some choice about the order they need to be done in.
Avoid scheduling demanding, dangerous, monotonous and/or safety critical work during the night, early morning, towards the end of long shifts and during other periods of low alertness
Avoid placing workers on permanent night shift.
If possible, offer workers a choice between permanent and rotating shift schedules.
Where possible, adopt a forward-rotating schedule for rotating shifts, rather than a backward-rotating schedule.
Either rotate shifts very quickly, e.g. every 2-3 days or slowly, e.g. every 3-4 weeks and avoid weekly/fortnightly rotating shift schedule.
If not strictly necessary for business needs, try to avoid early morning starts before 7a.m.
Where possible, arrange shift start/end times to be convenient to public transport or considering providing transport for workers on particular shifts.
Limit shifts to a maximum of 12 hours (including overtime) and consider the needs of vulnerable workers <sup>1</sup> .
Limit night shifts or shifts where work is demanding, monotonous, dangerous and/or safety critical to 8 hours.
Consider if shifts of a variable length or flexible start/end times could offer a suitable compromise.
Avoid split shifts unless absolutely necessary to meet business needs.
Encourage and promote the benefit of regular breaks away from the workstation.
Where possible, allow workers some discretion over when they take a break, but discourage workers from saving up break time in order to leave earlier.
In general, limit consecutive working days to a maximum of 5 – 7 days and make sure there is adequate rest time between successive shifts.
Where shifts are long (>8 hours), for night shifts and for shifts with early morning starts, it may be better to set a limit of 2- 3 consecutive shifts.
When switching from day to night shifts or vice versa, allow workers a minimum of 2 nights' full sleep.
Build regular free weekends into the shift schedule.

1. Vulnerable workers include those under 18 years of age; older workers; new and expectant mothers; workers with pre-existing health conditions, which may be made worse by shift work, such as those with gastro-intestinal problems, coronary heart disease and sleeping problems; workers taking time-dependent medication such as insulin; temporary or other workers such as sub-contractors and maintenance workers, who may not be familiar with or be able to adhere to current shift work schedules, or who have been on a different schedule with a previous employer; workers who, following a standard day's work, have remained on call through the subsequent night or weekend.



**EXTRACTS FROM HSG256**  
**Managing shiftwork: Health and safety guidance**

**Table 11 Good practice guidelines for improving the shift work environment**

Provide similar facilities and opportunities for shift workers as those available for your daytime workers.
Ensure that workplace lighting is adequate and adjustable by workers.
Ensure that the workplace temperature is adjustable and allows workers to carry out their tasks in reasonable comfort.
Consider increasing supervision during key periods of low alertness, e.g. during the night, early morning, towards the end of long shifts and other periods of low alertness.
Make sure supervisors and team members with responsibility for shift-working arrangements are aware of the risks associated with shift work and can recognise shift work-related problems.
Control overtime and shift swapping by monitoring and recording hours worked and rest periods. Discourage workers from taking second jobs.
Make provision in the work schedule to allow adequate rest for those workers carrying out standby/on-call duties or overtime.
Provide training and information for workers, their families and management on the risks associated with shift work and on coping strategies. This may help workers to cope better with shift work.
Make provision to release staff for foreseeable training, development and communication needs.
Encourage interaction between workers and provide a means of communication for lone workers.
Agree on, and ensure timing and procedures for transmitting information to the next shift team are followed at all times.
Encourage workers to inform their doctor about their working arrangements.
Promote healthy living strategies such as increasing exercise and improving diet.
Ensure that free health assessments are provided for night workers.
Ensure that the workplace and its surrounds are well lit, safe and secure and that workers are free from the threat of violence.



## Offences

### Details of offences by an employer under regulation 17 which may be prosecuted are set out below:

- (1) A breach of any one of the following:
  - regulation 6 – maximum daily working time of 14 hours in any 24 hour period;
  - regulation 6A – maximum weekly working time of 84 hours in any seven day period;
  - regulation 6B – maximum annual working time of 2,304 hours in 12 months;
  - regulation 6C(1) – maximum average weekly working time of 48 hours in any seven day period;
  - regulation 6D – maximum average weekly working time of 72 hours within a 4-month period where there are more working days than rest days;
  - regulation 7C – ensuring that a worker does no more than 42 hours of night work during any seven day period;
  - regulation 15A(2) – failure to ensure that working time on a passenger ship during the season does not exceed 12 hours in any 24 hour period and 72 hours in any seven day period.
- (2) A breach of regulation 7A(1)
  - ensuring that a worker has the opportunity to have a free health assessment before they take up an assignment that will make them a night worker (unless the worker had such an assessment before and the employer has no reason to believe that that assessment was no longer valid);
  - ensuring that each night worker employed as the opportunity to have a free health assessment at regular intervals;
- (3) A breach of regulation 7B(1) – transferring a night worker to work to which the worker is suited to be undertaken during periods which will mean the worker ceases to be a night worker where the employer has been advised by a registered medical practitioner that the worker is suffering from health problems which the registered medical practitioner considers to be connected with the fact that the worker performs night work;
- (4) A breach of regulation 8 – ensure that a worker has been given adequate rest breaks where the pattern of work is such as to put their health and safety at risk (particularly because the work is monotonous);
- (5) A breach of regulation 9 - keeping records adequate to show compliance with:
  - Maximum daily, weekly and annual working time
  - Maximum average weekly working time
  - Limitation on night work
  - Adequate rest
  - Minimum daily and weekly rest
  - Rest days
  - Annual leave



- Compensatory rest following an emergency
  - Special arrangements for daily and weekly working time and rest days for passenger ships during the season.
  - keeping the records referred to above available on board ship until at least the end of the reference period;
  - examining and endorsing the records referred to above at appropriate intervals no later than the end of the following month to which they relate;
  - giving a copy of the endorsed records to the worker to whom they relate;
- (6) A breach of regulation 10B(2) – prohibition on requiring a worker to work more than 31 days consecutively;
- (7) A breach of regulation 16 – providing the MCA with such information on night workers employed by the employer as the Secretary of State has specified in writing.

**Details of the offence by a master under regulation 17 which may be prosecuted are set out below:**

- (8) A breach of regulation 14A(3) – ensuring that a worker who has performed work in a scheduled rest period as a result of an emergency situation is provided with an adequate period of rest.

