What are the Working Time Regulations?

The Working Time Regulations 1998 came into force on 1 October 1998 and have been amended in part by the Working Time Regulations 1999 and the Working Time (Amendment) Regulations 2003. The Regulations implement the European Working Time Directive into UK law. They are primarily health and safety legislation and are intended to protect workers from the risks that arise out of working excessively long hours or for long periods without breaks.

The Regulations provide that all workers should be entitled to:

- **A maximum average working week** (inclusive of overtime) of not more than 48 hours (the averaging period to be 17 weeks or longer in some cases) [an absolute maximum of 40 hours a week in the case of young workers and a maximum working day of 8 hours in the case of young workers except where required for continuity of service or a surge in demand, or where no adult worker is available, or where it would not adversely affect a young workers education or training]

- **A 20 minute rest break** where the working day is longer than 6 hours [30 minutes rest in the case of young workers where the working day is longer than 4 ½ hours*];

- **A minimum daily rest period of 11 consecutive hours** in each 24 hour period [12 hours rest in the case of young workers];

- **A minimum of 24 hours rest every 7 days** (or 48 hours every 14 days) [48 hours rest in every 7 days in the case of young workers]. This rest period does not have to include a Sunday;

- **A restriction of 8 hours night work in every 24 hour period**, the restriction of 8 hours to be averaged except where the work involves special hazards or heavy physical or mental strain in which case it can never exceed 8 hours; and

- **Free health assessments** [and capacities assessments in the case of young workers] prior to workers being assigned to night work and at regular intervals thereafter;

- 5**.6 weeks' paid annual leave** - apart from the excluded sectors no opting out of the annual leave provisions, no carrying over of holiday from one annual leave year to the next and no payments in lieu except on "termination of employment";

- **Protection through the Employment Tribunals** from suffering detrimental treatment or dismissal by the employer for taking entitlements under the Regulations.

- All "employers" under the Regulations are required to keep records to show that they have complied with their obligations unless workers have opted out of the 48hour weekly limit.

Note: *Young workers are workers who have reached the age of 15 but not yet attained the age of 18.*

The Regulations set down minimum standards. There is nothing to prevent employers and employment businesses from giving workers more than the statutory minimum requirements. It is important to distinguish between an "entitlement" under the Regulations and a mandatory "obligation".

Examples of entitlements include:
- The right to rest breaks; and
- The right to paid annual leave.

An "employer" is not obliged to ensure that a worker exercises his right to take them. However an employer may not prevent a worker from exercising an entitlement under the Regulations. In such cases a worker can make a complaint against the employer in the Employment Tribunal. However the Health and Safety Executive has no power to require that the entitlement be taken if the worker does not wish to take it or to take any sanction against an employer in those circumstances.

Examples of mandatory obligations include:
- Limits on working time, i.e. the 48 hour week and the 8 hour night shift; and
- The requirement to keep records.

Employers are under a duty to observe and comply with the Regulations that impose mandatory obligations. If they fail to do so they will be guilty of an offence. In the first instance the Health and Safety Executive is likely to issue employers/employment businesses with advice and a warning but if this warning is ignored it will, in all likelihood, result in legal proceedings and a fine. Workers may also make complaints to the Employment Tribunals.

Source: REC Website Aug 2018