**WORK REGULATIONS**


*Part of the Health and Safety Legislation

*UK v EC Council C-84/97 – UK does have implement directive.

**WTR 1998**

*Worker: employees; anyone giving personal service otherwise than client/customer; although not genuinely self-employed.

*Working time: working at employer’s disposal and carrying out duties; can include time on call.

*Working time is any time spent working. What about being on-call? – SIMAP v Conselleria de Sanidad y Consumo de la Generalidad Valenciana. Doctor issue is still difficult one, but security on site is classed as ‘on-call’.

*Working hours – limit 48hr week, unless companies ‘opt out’. Has to be consistent over time for it to be breach WTR 1998. Averaged out over a reference period of 17 wks. Different rules apply to doctors (Johnson v Bloomsbury Area Health Authority) – although junior doctors are still bound by 48hrs per wk. Opt-out available (must be in writing). Can opt back in (must be in writing).

*Daily and weekly rest breaks for workers: 11 minutes per 24 hour period (6-7pm). 12 hours rest in any 7 day period. Reg 11(1); 20 minute break where 6 hours or more is worked – Reg 12 (1)(3). Young workers: 12 hrs uninterrupted rest, 2 whole days off, 30 min break where 4.5 hours worked. Miller v Lambert/ Commission of the EC v UK – obligation or entitlement? Obligation on employer, not for employee to initiate.

*Night workers – max 8hrs per night. A night worker is works at least 3 hours during night time on majority of working days; night time: a period of 7 hours inc. midnight to 5am (e.g. 11pm-6am); limited to 8 hours work in any 24 hours. Have free health and safety assessments.

*Paid annual leave – 28 includes bank holidays. No statutory right to a bank holiday. More leave can be agreed than the statutory minimum (Work and Families Act 2006 s.13). Also available to those on maternity / sick leave. Statutory Notice requirements: twice as long as the leave to be taken (Counter notice). Payment in lieu of holidays not taken during employment is not permissible (Reg 13(9)). Does not have to be taken, but cannot roll over, unless contract says. Payment in lieu on termination of employment.

**PART-TIME WORKERS AND BANK HOLIDAYS**

*Problem: PTW who do not work on a Monday miss out as most UK bank holidays fall on a Monday. Solution: Allow the worker ‘extra’ holiday to account for shortfall in their bank holiday entitlement.

**Exceptions**

*Unmeasured working time: reg 20; special cases: reg 21.

**Enforcement:** if limits are breached, it will go to health and safety officer and they will gives enforcement notices; rights claim can go to ET where they can get declaration and compensation.

**NATIONAL MINIMUM WAGE**

– governed by NMWA 1998

*Gives workers the right to a specified minimum hourly rate of pay – 4 different rates *Updated every October

*Statutory requirement - No exceptions!

*NTMWA covers for different rates: standard adult rate 21+ = £6.08; 18-20 £4.98; apprentice rate under 19 £2.60; 16-18 £3.68.

*Covers employees, agency workers, agricultural workers, some apprentices, overseas workers. NOT au pairs, non-executive directors, prisoners, self employed

*To work out NMW need to know: payments received by worker, hours worked by worker

*Statutory sick pay

*Social Security Contributions and Benefits Act 1992

*From April 2012: £85.85 per week, max 28wks.

*Conditions: contract of service (have to be an employee); no minimum length of service; must be sick for at least 4 days in a row; first 3 days waiting days – not paid; Average weekly earnings of £107

**OTHER STATUTORY RIGHTS**

**Unauthorised deductions from wages**

*Applies to all workers

*Section 2 ERA 1996

*Lawful deductions: ct order for compensation; attachment of earnings order; certain strike situations; authorised by legislation; authorised by contract; over payment of wages

*Apply to ET – 3 month time limit

**Itemised pay statements**

*Section 8 ERA 1996: gross pay; all fixed deductions; all variable deductions; net pay