



Ministerie van Sociale Zaken en
Werkgelegenheid

The Working Hours Act

Information for employers and employees

The Working Hours Act

Working consumes energy, both mental and physical. That is why employees are not permitted to work for too many hours on end. There are regulations for how many hours per day people may work and when someone is entitled to a break. These regulations are included in the Working Hours Act and the Working Hours Decree.

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What does the Working Hours Act regulate?

The Working Hours Act stipulates how many hours per day and per week an employee may work and when he* is entitled to a break or rest. These regulations have been established in order to protect the worker's health, safety and well-being, but also to enable him to combine work with his private life and family responsibilities. The regulations apply for employees aged eighteen and older. Separate regulations apply for children under 16 and young people aged 16 and 17. A few special regulations also apply for women who are pregnant or who have recently given birth.

Exceptions and additions

The Working Hours Decree (abbreviated ATB in Dutch) contains exceptions and additions to the Working Hours Act. In addition to general exceptions, there are also additional regulations for healthcare, mining and a number of other sectors. These sectors are therefore subject both to the general rules of the Working Hours Act and Working Hours Decree and the separate sector regulations.

Collective arrangement

Some regulations from the Working Hours Act and many of the general and sector regulations from the Working Hours Decree can only be applied by 'collective arrangement,' i.e., after consensus has been reached in collective (mutual) consultation. A collective arrangement may be a CAO (collective labour agreement) or the regulations on the legal status of public servants, but it may also be a written agreement between the employer and the co-determination body (the works council or employee representation).

* in this document 'he' should be read in fact as 'he or she'

How much may an employee work?

An employee may work a maximum of 12 hours per shift. The maximum working hours per week is set at 60.

Note: an employee may not work the maximum number of hours every week. Looked at over a longer period, the working hours are as follows:

- Per week during a 4-week period: on average 55 hours per week during a period of 4 weeks; deviating agreements on this can be made in a collective arrangement (CAO for example). But an employee may never work more than 60 hours per week;
- Per week during a 16-week period: on average 48 hours per week during a 16-week period. The employee and employer make agreements on what exact hours the employee works per day and per week.

Rest after working hours

- After a working day, an employee must have 11 consecutive hours of non-work time. This rest period may be shortened to 8 hours once in a 7-day period if the nature of the work or the business circumstances require this.
- In the event of a 5-day work week, an employee must have 36 consecutive hours of non-work time after the end of the work week.
- A longer work week is also possible, provided the employee has at least 72 consecutive hours of non-work time in a period of 14 days. This period may be split into two periods of at least 32 hours each.

Breaks

- If an employee works for more than 5 ½ hours, he is entitled to at least 30 minutes of break time. This may be split into two 15-minute breaks;
- If an employee works for more than 10 hours, he must have at least 45 minutes of break time. This may be split into several breaks, each of which must be at least 15 minutes.

A collective arrangement (CAO for example) may include agreements on fewer breaks. But if the employee works for more than 5 ½ hours, he must at least have 15 minutes of break time.

Is working on Sunday required?

The starting point is that an employee does not have to work on Sundays, unless the employer and employee have made an agreement in this respect.

Work on Sundays is only permitted incidentally if the type of work requires this. For example in healthcare, the hospitality industry, the police or fire brigade. But this is also permitted for instance in industry, where certain production processes may not be interrupted.

The **business circumstances** may also dictate that work on Sunday is necessary. In such case agreement must first be reached with the works council. Moreover the employee himself must also agree to work on Sunday.

An employee must have at least **13 free Sundays per year**. A CAO may contain agreements reducing the number of free Sundays to less than 13, but in that case too the employee himself must consent.

What regulations apply for night shifts?

An employee works a night shift if he must work for more than 1 hour between the hours of midnight and 6 am. Stricter regulations apply for night shifts than for day shifts.

Number of hours in a night shift

- A night shift may not involve more than 10 hours of work.
- If a night shift ends after 2 am, this must be followed by a minimum of 14 hours of non-work time. This may be shortened to 8 hours a maximum of once per week. But only if the type of work or the business circumstances necessitate this.
- If a night shift ends before 2 am, just as for day shifts this must be followed by 11 consecutive hours of non-work time.
- A maximum of 5 times per two weeks and 22 times per year an employee may work a 12-hour night shift. After a 12-hour night shift, he must have at least 12 hours of non-work time.
- After a series of 3 or more night shifts, an employee must have at least 46 hours of non-work time. If the last night shift ends on Tuesday morning at 6 am, for instance, the employee may not resume work until Thursday at 4 am.

Number of night shifts

- An employee may work a maximum of 36 night shifts in a 16-week period.
- An employee may not work more than 7 consecutive shifts if one of these shifts is a night shift. This may be extended to 8 if the type of work or business circumstances necessitate this and if agreed as such in a collective arrangement.
- If the employee only works a night shift occasionally (less than 16 times in 16 weeks), the same applies as for day shifts: on average 48 hours of work per week.
- If an employee regularly works night shifts (16 times or more during a 16-week period), he may not work more than an average of 40 hours per week within those 16 weeks.



**Increase the number of night shifts**

- The number of night shifts may be increased by collective arrangement from 117 to 140 night shifts per year if the type of work or business circumstances necessitate this.
- If the employee only works on the 'edges of the night,' for example if the working day starts at 4 am, then by collective arrangement use may be made of the regulation that the employee may work a maximum of 38 hours every 2 weeks between the hours of midnight and 6 am.

Transition scheme if the employee almost always works at night

Since the new Working Hours Act came into effect on 1 April 2007, the new Transition scheme for permanent night work is also in effect indefinitely. If an employee already worked mainly at night before 1 January 1996, he may continue this work pattern after 1 April as well. In every period of 4 consecutive weeks the employee may work a maximum of 20 night shifts.

What regulations apply for being on-call for unforeseen circumstances (on-call duty)?

Even if an employee is not at the work place, he may be called on to go to work if **unforeseen circumstances** arise. This is referred to as 'on-call duty' in the Working Hours Act.

Similar to this is 'standby duty.' The difference is that being called to work is a normal part of the job for someone with standby duty, for example in maternity care. Standby duty is only found in the healthcare sector.

Working hours or not?

In the event of on-call duty and standby duty, the hours during which an employee can be called are not considered working hours. If however an employee is called and must go to work, this time does count as working hours. A call counts for at least a half hour of working time, even if the employee only actually works for fifteen minutes. If an employee is called once again within a half hour after he has finished his work following a call, the interim time also counts as working time.

The regulations for on-call duty in brief:

- An employee may not work more than 13 hours per 24 hours, including the hours that arise from calls.
- An employee may only be on on-call-duty for a maximum of 14 days during a 4-week period.
- An employee must have at least 2 consecutive days in every 4-week period in which he is not working and also not on on-call duty.
- An employee may not be on on-call duty immediately before or immediately after a night shift. He may not be on on-call duty in the 11 hours preceding a night shift or during the 14 hours after a night shift.
- If an employee is on on-call duty between midnight and 6 am 16 times or more within a 16-week period, he may not work more than 40 hours per week on average during that 16-week period.
- Exception: he may work an average of 45 hours per week during this 16-week period under the following conditions:
 - He has 8 consecutive hours immediately after the last night call during which he is not working or on on-call duty.
 - If that is not possible, he must in any event have 8 consecutive hours of rest on that same day (before midnight therefore).

Note!

- A call does not count as an interruption of the daily or weekly rest time.
- A night call does not count as a night shift.

In addition to on-call duty and standby duty, yet another form of 'being available' is provided for in the Working Hours Decree, namely 'on-site standby duty.' For this kind of duty, the employee must stay on-site at the work place. A special arrangement applies for on-site standby duty.

What regulations apply for being available at the work place (on-site standby duty)?

During on-site standby duty, an employee must remain at the work place, so that he can start work as quickly as possible after a call. This is only permitted if the type of work necessitates this and the work cannot reasonably be organised in a different way (for example in healthcare or in the fire brigade). Moreover, working on-site standby shifts must be agreed on in a collective arrangement.

The following regulations apply for working on-site standby shifts:

(Note: If you do not regularly work an on-site standby shift, the normal regulations apply).

- There must be a period of at least 11 hours before and after an on-site standby shift during which the employee is not working. This rest time may be shortened to 10 hours once per week and to 8 hours once per week if the nature of the work or the business circumstances necessitate this and if this is collectively agreed. The shorter rest times may not be planned to follow each other and must be spread over the week therefore.
- A shortened rest time between two shifts must be compensated for in the following rest period. After a shortened rest period, the very next rest period must in that case be extended by the number of hours by which the previous one was shortened.
- In every consecutive period of 7 times 24 hours, the rest time must amount to a minimum of 90 hours. This rest time must at least contain one uninterrupted rest period of at least 24 hours, as well as four uninterrupted rest periods of at least 11 hours, one uninterrupted rest period of at least 10 hours, and one uninterrupted rest period of at least 8 hours, whereby uninterrupted rest periods may follow one on the other.
- An on-site standby shift may not last more than 24 hours, including hours of waiting or sleeping.
- An employee may work an on-site standby shift a maximum of 52 times in 26 weeks.
- All hours during an on-site standby shift – any hours of scheduled work, the work resulting from calls and the hours of mandatory on-site presence – count as working time.
- An employee may work at most on average 48 hours per week in a 26-week period.
- The employee and employer may also in consultation make use of the 'customisation construction' or opt-out. They can agree on an arrangement to work up to 60 hours per week. If an employee agrees to this, he must state his agreement in writing.
- The written consent is valid for a period of 26 weeks and is subsequently tacitly renewed for the same period, unless an employee explicitly states that he does not want to tacitly continue the agreement.

Work and pregnancy

The Working Hours Act contains a few special regulations for women concerning pregnancy and motherhood. Work for the pregnant woman and for the woman who has recently given birth must be organised in such a way that her specific circumstances are taken into account. A pregnant woman is entitled to extra breaks and is, in principle, not required to work night shift or overtime. A pregnant woman also has the right to work according to a stable and regular pattern of work and rest. She may not work from 4 weeks before the expected due date until six weeks after the birth. During the first nine months after the birth the woman may interrupt her work to breast feed or pump breast milk. The employer must make a suitable room available for this. The woman is entitled to breastfeed or pump breast milk as often and for as long as necessary, but for in total not more than a quarter of the working hours. The employer is required to continue to pay the salary for these hours.

What are the exceptions to the Working Hours Act?

The Working Hours Decree contains exceptions and additions to the Working Hours Act. There are general exceptions that apply for certain employees and certain situations and exceptions that apply for certain sectors, such as healthcare or mining. These sectors therefore are subject to the general regulations from the Working Hours Act and the Working Hours Decree and the separate sector regulations.

Collective arrangement

Unless otherwise stated, the application of the exceptions below is only possible by collective arrangement.

On-site standby duty

During on-site standby duty, the employee must remain at the work place in order to start work as quickly as possible after a call. The employee may only work on-site standby duty shifts if the type of work requires this and the work cannot be organised differently (for example in healthcare or the fire brigade).

Longer working hours prior to holidays

If necessary in preparation for a holiday, during the 7-day period preceding that holiday a maximum of 14 hours may be worked on two occasions (including at night).

Holidays include the following, in any event: New Year's Day, Easter, Queen's Day, Ascension Day, Whitsun, 5 December, and Christmas, but other holidays could also be eligible. No collective agreement is required for the application of this arrangement.

Longer night shift on the weekend

Between 6 pm on Friday and 8 am on Monday, an employee may work two night shifts of maximum 11 hours, in addition to one 10-hour night shift. After such a night shift, the employee must have at least 12 hours rest time. If the employee makes use of this scheme, he must have at least 26 Sundays per year free.

This scheme may not be used in combination with the general regulations for longer night shifts.

Longer night shift during the week

If staffing drops below the minimum during the working week (i.e. not during the weekend) as a result of unforeseen circumstances or because of a holiday, the remaining employees may work 12-hour night shifts. During these shifts, a maximum of 12 hours may be worked. This is only permitted twice in a 2-week period and 8 times in a 52-week period. Immediately after such a night shift, an employee must have at least 12 hours of rest time.

This arrangement may also not be applied in combination with the general regulations for longer night shifts.

Longer working hours in the event of necessary work

If work cannot be postponed, longer hours may be worked. This is only permitted however if these longer hours cannot be avoided. The employee may in such a case work for a maximum of 14 hours once in a 2-week period (also during the night). No collective agreement is required for the application of this regulation.

Extra quarter hour for handover of activities

Working hours may be extended by 15 minutes and the daily rest time shortened by 15 minutes, in order to facilitate the handover of activities, for example in the event of shift work. If this 15-minute extension makes a shift into a night shift, this shift does not count towards the number of night shifts. No collective agreement is required for the application of this regulation.

On-call during break

If the nature of the work necessitates this, it can be agreed that an employee remains on-call during his break. These so-called on-call breaks do not count towards the number of times that an employee may be on on-call duty. If an employee may not in fact leave the work place, these break periods count as working time.

Break waived

If an employee may not leave the work place for a break because of the nature of the work, it is possible that a break may be waived. This often involves a situation in which an employee is working alone. In that case a maximum of 44 hours on average may be worked per week per 16-week period.

If the deviating break arrangement applies to an employee and use is also made of the Longer night shift during the weekend arrangement, he may not work more than 10 hours per night shift.

Reference period extended to 52 weeks

Unforeseen circumstances or the nature of the work may cause the supply of work to fluctuate during the year (in the case of seasonal work, for instance). In that case the 16 weeks on which the average working time is calculated (the so-called reference period) may be extended to 52 weeks. The reference period may also be extended if an employee exclusively or mainly works as a manager. This is possible in two ways:

- In a 52-week period, he may work a maximum of on average 48 hours per week. Agreement on the level of the CAO is necessary for this extension.
- In the event of night shifts: in a 52-week period, he may work a maximum of 40 hours per week on average. An agreement on the level of the company may also suffice for this extension.

Specific sector regulations

A number of deviating regulations – based on the Working Hours Decree – may only be applied if the work is performed within a particular sector. The most important regulations are described below. Note: the other regulations of the Working Hours Act, insofar as applicable, continue to be in effect. The Working Hours Decree indicates exactly for which category of work or employees in the sectors cited the deviations apply.

Collective arrangement

Unless otherwise stated, application of the specific regulations is only possible by collective arrangement.

Audio-visual productions

Audio-visual productions: activities related to the creation and broadcasting of audio, visual or audio-visual productions as well as the work directly connected with this, performed by employees aged 18 or older.

Work and rest times

- Daily rest time 11 hours. This rest time may be shortened to at least 10 hours 12 times in each 4-week period, and
- An average of 40 hours per week measured over a period of one year.

Dredging activities

Dredging activities: activities that consist of the dredging, suction, spraying, moving or extraction of materials for industrial, construction or other purposes and the work immediately related to this.

Note: the regulations do not apply to crew members on board inland navigation vessels or seagoing ships – employees who fall primarily under the authority of the captain – and apply exclusively within the Netherlands.

Weekly work time

72 hours per week

Night shifts

- 11 hours of work per night shift;
- 12 consecutive hours of rest after a night shift;
- 60 consecutive hours of rest after a series of at least 3 and at most 7 night shifts;
- At most 36 night shifts ending after 2 am in every period of 16 consecutive weeks.

Cinemas

Cinemas: work performed in a cinema by an employee aged 18 or older and which consists exclusively or primarily of:

- a. Operating film equipment as operator or apprentice operator, or
- b. Operating the cinema business on behalf of the employer and in his place.

Working time per (night) shift

- 12 hours or
- 14 hours, as long as this does not take place more than 26 times per year and these shifts are followed by a rest period of at least 24 hours.

Weekly working time

- 72 hours;
- 40 hours on average per week measured over a period of one year.

Daily uninterrupted rest time

11 hours, may be shortened to 8 hours 4 times per 4 weeks.

Fire brigade

Note:

- This includes both the municipal fire brigade and company fire brigades, and both volunteer and professional fire brigades.
- Volunteers in the volunteer fire brigade are not volunteers in the sense of the Working Hours Act.
- The specific regulations concern exclusively the regulations for on-call duty and on-site standby duty.
- Normal activities, such as extinguishing fires, are subject to the regulations of the Working Hours Act.

Volunteer fire brigade

Maximum working time for on-call duty

- 14 hours in every period of 24 consecutive hours;
- 48 hours of work (main occupation plus fire brigade work) on average per week, measured over 16 weeks (also therefore in the case of on-call duty (partly) at night).



Periods without on-call duty

The normal restrictions on on-call duty apply for the volunteer fire brigade (no on-call duty on 14 days in a 28-day period, which must include at least 2 periods of 2 consecutive days on which the employee is not on on-call duty and does not perform other work, and no on-call duty during 11 hours before and 14 hours after a night shift), except if the individual is head or deputy head of the fire brigade.

- For the head or deputy head of the volunteer fire brigade, the following applies: 91 days of no on-call duty in every 182-day period.
- The head or deputy head of the volunteer fire brigade may be given on-call duty immediately following a night shift.

On-site standby duty

- 1 on-site standby shift per 7 consecutive days. Note: this number is on top of the number of on-site standby shifts that the employee may perform on grounds of his primary occupation.
- The volunteer fire brigade is also subject to the normal regulations for rest before and after an on-site standby duty, except that one time per period of 7 consecutive days the rest of 11 hours before and after an on-site standby duty need not be observed.

Professional fire brigade

On-site standby duty

- 62 on-site standby shifts in every period of 26 consecutive weeks;
- The professional fire brigade is also subject to the normal rules for rest before and after an on-site standby shift, except if the number of employees necessary to guarantee unimpeded continuation of the shift falls below the required minimum. In that case the rest of 11 hours before and after an on-site standby shift is not mandatory.

Bakeries and patisseries

Bakeries and patisseries: activities that consist of baking bread and pastries and the work directly related to that.

Rest time after a series of night shifts

36 hours after a series of at least 3 and at most 6 night shifts

Regulations for night work for youth in training

Young employees (16-17 year olds) who are training to become bakers, pastry bakers, or managers are subject to the following regulations for night work, insofar as this is necessary in the context of their training:

- No work between 10 pm and 4 am;
- 8 hours of work per night shift and 40 hours per week;
- 4 night shifts in a period of 7 consecutive days;
- 14 hours of rest after a night shift.

Regulations for night work for artisanal bakeries

Bakeries where work is performed according to traditional methods and where production takes place exclusively or primarily for one or more bread and pastry shops owned by the bakery, the following applies: 20 night shifts (ending after 2 am) per 4 weeks.

Defence

Defence: work performed by young defence personnel.

Note: the regulations below do not apply to civilian personnel employed at the Ministry of Defence, but only to military officials in active service and individuals actually engaged in mandatory military service.

Young employees

Weekly working time

40 hours on average per 16 weeks.

Other working and rest times

For young defence personnel, the same standards for working and rest times apply as for employees aged 18 and older.

Hospitality industry

Hospitality industry: night work performed at places of entertainment such as cafes, casinos and night clubs, where work is exclusively or primarily performed in night shift.

Number of night shifts

20 night shifts (ending after 2 am) per 4 weeks.

Live-in household personnel

Live-in household personnel: work of a domestic nature for a private household, whereby the employee lives in the private household. The household work can be performed in the private home, even if this has a (partial) business function.

Note: the regulations below replace the general regulations for working and rest times.

Working and rest times

- 9 hours rest per 24 hours;
- Break after 4 hours of work (of at least 15 minutes);
- 36 consecutive hours of rest per week;
- 13 free Sundays per year;
- 60 hours of work in one week;
- On average 48 hours per week measured over 16 weeks.

Local railway companies

Local railway companies: work performed by tram and metro drivers. According to the general regulations, a series of 3 night shifts must be followed by a rest time of 46 hours. The regulation below makes it possible to take this rest period of 46 hours only after 3 night shifts and a short day shift. If this working pattern is not used, the general regulations for night work apply.

Night shifts

- At most 4 night shifts (ending before or at 2 am) per 7 consecutive days;
- Followed by a day shift of at most 6 hours;
- At least 11 hours rest between the last night shift and the short day shift;
- At least 46 hours rest after the short day shift.

Mining

A number of specific regulations also apply in the mining industry, which replace the corresponding regulations from the Working Hours Act. The specific regulations apply both for mining work at sea (mining installations) and for other mining activities. There are also separate regulations for divers.

General regulations in the mining sectors

- Senior personnel and managers: The general regulation is that employees who earn 3 times the minimum wage or more do not fall under the standards of the Working Hours Act. This does not apply for work in mining because of the strenuousness of the work and the risks associated with the work. In mining work, only one category is exempted, and that is the individual whose work consists entirely or primarily of managing. Therefore, the employee who, in addition to his physical labour for the mining work, also has certain managerial or coordinating tasks does not fall under these specific regulations. He is subject to the standards of the Working Hours Act, even if his salary amounts to more than 3 times the minimum wage.
- Self-employed: The general rule that the Working Hours Act only applies to employees and not to the self-employed does not apply for mining work. In connection with the safety of the mining and the production process, it is important that even those who are self-employed and who perform labour on, from or for a mining structure (so for example divers, working from a ship) adhere to the standards of the Working Hours Act.
- Registration: Besides the fact that in addition to other general obligations the employer must keep a register of the working and rest times of the employees, in the event of mine work it is also required that this register be available at the mining structure itself. These data registered on site must also be available at the employer's head office in the Netherlands within six weeks.
- Also outside the Netherlands: The general regulation that the Working Hours Act only applies within the Netherlands also has a few exceptions, and work in the mining industry is one of them. The law also applies:
 - to work on or from a mining installation (at sea) on the continental shelf
 - to diving work for a mining installation (at sea) on the continental shelf
 - to diving work on or from foreign ships on the continental shelf for a mining installation (at sea). (If other work is concerned, the Working Hours Act does not apply to foreign seagoing ships. Seagoing ships sailing under the Dutch flag are subject to the Working Hours Act at all times, even outside the continental shelf).

Mining work at sea

The following regulations apply for work performed on or from a mining structure at sea (mining installation). No collective agreement is required for application of these regulations.

- Maximum 11 hours of work per (night) shift.
- Maximum 14 shifts per 28 days.
- Maximum 40 hours of work per week on average in a period of 16 weeks.
- 1 hour break during a shift. This may be split into 2 or more breaks (of at least 15 minutes each).
- A rest time of 12 uninterrupted hours must follow a shift. The rest time may be shortened to 8 hours 4 times in a 4-week period.
- The working time may be extended by one hour 2 times in a 28-day period in connection with drills and training related to work safety. This also applies for the shortening of the rest time by 1 hour.
- In a 26-week period, each 24-hour period that is spent on location (the mining installation) must be compensated with a rest period of equal duration which must be spent elsewhere (not on the mining installation therefore). In practice, this usually results in a working pattern of 14 days of work, followed by 14 days of rest on shore.
- The period of rest may be interrupted, but exclusively for the purpose of drills and training that cannot take place at the work site and which are necessary for the safety of the work.
- In a 52-week period, 20 days of the rest enjoyed elsewhere may be devoted to safety drills and training. There is a limit on the number of consecutive days that drills or training may be followed, namely 5.
- If an employee is on on-call duty (may be called in if unexpected circumstances arise), he may perform a maximum of 13 hours of work per 24-hour period and 85 hours of work maximum per week. Collective agreement is required for this deviating on-call arrangement however.

Mining work on land

Work performed on or from a mining structure on land is subject to the same regulations as for a mining structure at sea (mining installation). The only difference is that application of these regulations requires collective agreement.



Temporary projects

The following regulations apply for employees who perform work on or from a mining structure (on land or at sea), but who do not perform work at the same work place for more than 6 weeks. No collective agreement is required for the application of these regulations.

- Maximum 11 hours of work per (night) shift.
- Maximum 15 shifts per 21 days.
- Minimum 72 hours of uninterrupted rest per 21-day period.
- Maximum of 40 hours of work on average per week in a 26-week period.
- 1 hour break during a shift. This may be split into 2 or more breaks (of at least 15 minutes each).
- A shift must be followed by an uninterrupted rest period of 12 hours. The rest period may be shortened to 8 hours 3 times per 3-week period.
- The working time may be extended by one hour 2 times in a 28-day period in connection with drills and training related to work safety. This also applies for the shortening of the rest time by 1 hour.
- In a 16-week period, each 24-hour period that is spent on location (the mining installation) must be compensated with a rest period of equal duration which must be spent elsewhere (not on the mining installation therefore). In practice, this usually results in a working pattern of 14 days of work, followed by 14 days of rest on shore.
- If an employee is on on-call duty (may be called in if unexpected circumstances arise), he may perform a maximum of 13 hours of work per 24-hour period and 85 hours of work maximum per week. Collective agreement is required for this deviating on-call arrangement however.
- If an employee transfers to a temporary project after having worked on a non-temporary project for 14 days, he may move on to his temporary project after just 6 days of rest on shore (at most 2 times per year). The 8 days of rest on shore that he is still owed must be taken at a later date.

Divers

The following regulations apply for employees who perform diving activities and work directly related to this, on, from or for a mining structure at sea (mining installation).

- Maximum 10 hours of work per (night) shift and 70 hours in one week.
- The employee may be on location for at most 28 consecutive days.
- A rest period of 1 uninterrupted week must follow this 28-day period. This rest period must be spent elsewhere (not on location therefore).
- The employee may be on location a total of 121 days calculated over a 26-week period. The remaining days (61) must be spent elsewhere (not on location therefore).
- If the employee is on location for a stretch of less than 28 days, each period of 7x24 hours spent on location must be followed by 2 days of rest. This rest period must be spent elsewhere (not on location therefore).
- If an employee is on location for less than 7 days, the following rest period is calculated on a prorated basis, but may be no less than 24 hours.
- A shift must be followed by an 8-hour rest period.

Saturation divers

Deviating regulations apply for saturation divers. These too may only be applied by collective arrangement.

- An employee may work 11 hours per (night) shift. Maximum 28 (night) shifts one after the other.
- An employee may work a maximum of 40 hours per week on average in a 16-week period.
- A shift must be followed by 12 hours of rest time.
- A series of shifts must be followed by a rest period spent elsewhere (not on location therefore). 24 hours of rest must be enjoyed for every 24-hour period in which an employee has worked.

Non-nautical inland navigation personnel

Non-nautical inland navigation personnel: activities performed on board ships on inland waterways by employees who are not crew members.

Note:

- The arrangement does not apply for ships as cited in section 4 of the Sailing Hours and Crew Numbers (Inland Waterways) Act, such as rescue ships, armed forces ships, or ships intended for transporting fewer than 13 passengers.
- Non-crew members on dredging ships can opt to make use of this arrangement or the specific arrangement for dredging activities. The two arrangements cannot be combined.

Uninterrupted rest after travel abroad

- If a trip of more than 6 days is made partly or entirely outside the Netherlands, the general standard for the weekly rest does not need to be observed.
- Instead of this, from the day after the ship has entered the inland waterways an uninterrupted rest time of 6 hours for every day that the employee has performed work on board the ship must be observed.

Working time

14 hours of work per shift at most one time in a 2-week period.

Note: if this possibility is utilised, use may not also be made of the arrangement 'Longer working hours in the event of necessary work'.

Performing arts

Performing arts: activities to support performances of a cultural or artistic nature or performances similar to these and the work directly related to this.

Note: This does not involve the people who participate in the performance therefore – they will usually not fall under the standards of the Working Hours Act – but the work performed by employees behind the scenes, such as stage builders, make-up artists, directors or light and sound technicians.

Working and rest times

- 12 hours of work per (night) shift;
- 14 hours of work per (night) shift, provided this does not take place more often than 26 times per year and an uninterrupted rest time of at least 24 hours is observed after this (night) shift;
- 72 hours of work per week;
- 40 hours of work per week on average, measured over a year;
- An uninterrupted rest time of at least 11 hours per 24-hour period. This rest time may be shortened to at least 8 hours 4 times in every period of 4 consecutive weeks.

Instead of these regulations, a so-called 'day-on, day-off' system may be opted for:

- 12 hours of work per night shift;
- 40 hours of work on average per week, measured over a year;
- An uninterrupted rest period of at least 11 hours per 24-hour period. This rest time may be shortened to at least 8 hours a maximum of 117 times in every period of 52 consecutive weeks.

24 hours of rest must follow a night shift if the night shift involves 12 hours of work and the rest time has been shortened in the 24-hour period.

Boarding schools for children of bargees and occupational travellers

Boarding schools for children of bargees and occupational travellers: work performed in a boarding school for children of inland navigation employees, carnival operators or circus artists, by a (head) group leader or assistant group leader whose work consists exclusively or primarily of activities relating to childcare/education. This involves boarding schools where specific housing, care and education is provided and which are managed by Netherlands-based institutions under private law which are legal entities.

On-site standby duty

An employee may only be assigned on-site standby duty a maximum of 62 times in a 26-week period.

Cleaning companies

Cleaning companies: work for a cleaning company, that is to say, a company that is exclusively or primarily occupied with cleaning in or at buildings and the work directly related to this.

Daily uninterrupted rest time

10 hours in a 24-hour period.

Winter maintenance work

Winter maintenance work: winter maintenance activities in connection with safety on the roads or safety of air traffic in the period from 1 November to 1 April.

Weekly working time for (partial) night on-call duty

If an employee is put on on-call duty 16 times or more between the hours of midnight and 6 am in a 16-week period, the weekly working time may not amount to more than:

- 50 hours on average measured over this 16-week period, and
- 40 hours on average measured over a period of one year.

Exhibition construction and ship repair

Exhibition construction and ship repair: activities that consist of:

- designing, building and dismantling exhibitions or parts thereof, as well as similar activities;
- making repairs to ships.

Working and rest times

- 72 hours of work per week;
- 11 hours of uninterrupted rest time per 24 hours, which may be shortened to 8 hours 4 times in 4 weeks;
- 45 hours of work per week on average, measured over a period of one year;
- 36 hours of uninterrupted rest time per week, which may be replaced 8 times per year with an uninterrupted rest time of 60 hours in 2 weeks.



Volunteer police

Volunteer police: work performed by volunteer officers appointed for the performance of police duties on grounds of the Police Act 1993.

Note: Volunteers in the volunteer police are not volunteers in the sense of the Working Hours Act.

Employees with the volunteer police may, for the purposes of this police work, deviate either from the weekly rest or the daily rest one time per 7 consecutive days (for example during the weekend).

Working and rest times

1 time per 7 consecutive days:

- 12 hours of night work;
- 24 hours uninterrupted rest time per week.

Either

- A rest time of 11 hours, which need not be consecutive, in a 24-hour period once per 7 consecutive days. This working time must be followed by an uninterrupted rest time of at least 24 hours.

Concurrence

The concurrence provisions from the Working Hours Act do not apply to the employee in the volunteer police. The volunteer who performs work for more than one employer must indeed inform the one employer of the hours worked for the other employer and vice versa.

Healthcare sector

A number of specific regulations apply for work in the nursing and care sector, for specific doctors, midwives and for ambulance employees. These regulations replace the corresponding regulations in the Working Hours Act.

Standby duty and on-site standby duty

Even if an employee is not at the work place, an employer may call on him to come to work. In the healthcare sector this is called 'standby duty.' On-site standby duty may also be used. In the event of on-site standby duty, an employee must stay at the work place however.

The regulations for standby duty are largely the same as the regulations for on-call duty, but there are important differences:

- Standby duty can only be used in the healthcare sector.
- Standby duty is used in situations where a call can reasonably be expected. In the event of on-call duty, an employee is only called on in unforeseen circumstances.
- Standby duty is a shift and is therefore a defined period of time. If an employee first works a normal, scheduled shift and a period of exclusively standby time follows that, both periods together constitute a standby shift. A standby shift may last a maximum of 24 hours. (The next standby shift may however follow immediately on this however).

Note!

The time during which an employee can be called does not count as working time. If he is called however and has to work, that time does count as working time.

A second standby shift may follow immediately on a first if there is a period of at least 11 hours between the periods of scheduled work (one time per week this may be shortened to 10 hours and one time to 8 hours).

Nursing and care

Nursing and care is defined as: nursing, providing care, advising, providing medical treatment or medical examinations of people in connection with their physical or mental health or their advanced age. This includes the activities of, for example, nurses, carers, physical therapists, laboratory assistants, people who assist the disabled, and workers in home care and maternity care.

Shortening of daily rest time

Within one week the daily rest time may be shortened once to at least 10 hours and once to at least 8 hours.

Standby duty

Maximum 3 times in every 7-day period and 32 times in every 16-week period (on average 2 times per week therefore). For the rest, the same regulations apply for standby duty as for on-call duty in general.

On-site standby duty

The regular regulations for on-site standby duty apply for on-site standby duty for nursing and care.

Doctors

The regulations below apply to doctors in training, dentists in training to become dental surgeons and midwives in intramural healthcare. The regulations also apply to assistant doctors who are not, not yet, or no longer in training, junior house officers, doctors on night duty, volunteer assistants and MDs.

Note!

The regulations do not apply to doctors employed as medical specialists, general practitioners, nursing home doctors, public health physicians or dental specialists and who are registered as such. These workers are also not subject to most of the other standards of the Working Hours Act.

For the aforementioned, non-exempt doctors, a number of specific regulations apply. The other standards of the Working Hours Act remain applicable. The following also apply for doctors therefore:

- Maximum working time of 12 hours per shift;
- Average working time per week of maximum 48 hours measured over 16 weeks;
- 10 hours of work per night shift, and
- The regular regulations for daily and weekly rest and for the rest after (a series of) night shifts.

Weekly working time

- No limit on the working time in one week;
- On average, weekly working time of 48 hours also for night shifts;
- On average, weekly working time of 48 hours also for on-call duty or standby duty that is (partly) at night.

Standby duty

- Maximum 5 times in every 7-day period and maximum 32 times in a 16-week period.

Note!

An average working time per week of maximum 48 hours measured over 16 weeks also applies in the case of standby duty that is (partly) at night. For the rest, the same rules apply for standby duty as for on-call duty in general.

Dentists and doctors in training

A specific regulation related to on-site standby duty applies only for doctors training to become medical specialists or dentists in training:

In the event of on-site standby duty, the average working time over 26 weeks amounts to:

- Maximum 56 hours per week through 31 July 2009;
- This can be increased to 60 hours if the employee gives his consent in writing.

Is training time considered working time?

In principle, the time assistant-physicians spend doing training activities is regarded as working time, unless these activities involve 'extra' training and courses which do not stem from a shift assignment. So scientific research, to the extent not performed as part of one's position, also does not count as working time.

Standby duty for midwives in training

Students training to become midwives must acquire the necessary experience during internship periods. The Ministry of Public Health, Welfare and Sport sets minimum requirements for the number of deliveries which a student must supervise. In order to be able to satisfy the minimum requirements, the following maximum applies for midwives in training:

- 12 times a series of maximum 7 consecutive standby shifts (84 per year).

For the rest, standby duty is subject to the same regulations that apply for on-call duty in general.

Ambulance care

Employees in ambulance care are understood to include: the driver of the ambulance, the nurse that accompanies the vehicle on calls, and the operator. The nurse that makes use of the regulation for ambulance services below cannot also make use of the relaxation to regulations that applies for nurses in general. (See Nursing and care.)

Standby duty

Maximum of 3 standby shifts in every 7-day period and maximum 46 shifts per 16 weeks. For the rest, standby duty is subject to the same regulations that apply for on-call duty in general.

Transitional scheme if employee almost always works at night

Since the new Working Hours Act came into effect on 1 April 2007, the new Transition scheme for permanent night work is also in effect indefinitely. If an employee already worked mainly at night before 1 January 1996, he may continue this work pattern after 1 April as well. In every period of 4 consecutive weeks the employee may work a maximum of 20 night shifts.

Does the Working Hours Act also apply for interns and the self-employed?

In principle the Working Hours Act applies for everyone who works for an employer, so for all employees, including interns, temporary employees and seconded employees. In a number of cases the Working Hours Act also applies for the self-employed. This is the case for situations in which the safety of third parties is also at stake, such as in transport sectors.

For whom does the Working Hours Act not apply?

In some situations the Working Hours Act does not, or does not fully, apply. For example in the event of sudden, unforeseen dangerous situations, whereby compliance with the statutory regulations would impede adequate action.

The Working Hours Act also does not apply if compliance with it would disrupt the maintenance of public order (this is the case for the intelligence and security services of the government and police).

Some forms of work are also exempt or partially exempt from the Working Hours Act. The regulations for Sunday work do not apply for people who hold a religious office in the church for instance.

Other groups of employees for which exceptions apply are:

- Employees who earn at least 3 times the minimum wage (unless they are engaged in dangerous work or work in night shifts, or when work by non-managers in the mining sector is concerned);
- Volunteer work;
- Professional athletes;
- Scientific researchers;
- Parents in foster homes;
- Performing artists;
- Medical and dental specialists, nursing home doctors, general practitioners, and public health physicians;
- Supervisors at school and holiday camps;
- Military personnel during deployment and exercises.

What are the employer's obligations?

An employer must keep a proper registration of the hours worked. There are no requirements for how this must be done, but the Labour Inspectorate must be able to gather from the registration whether the Working Hours Act has been complied with.

An employer must record in writing the employees' working patterns. Every employee must be allowed to inspect this.

Changes to the working pattern (for example the schedule) must be reported by the employer as soon as possible. In the event of a collective arrangement, agreements can be made on what this should mean. If these agreements are not made, an employer must announce this work pattern to the employees at least 28 days in advance. Only if the nature of the work prevents this may he limit himself to announcing the weekly and Sunday rest times. The employee must be informed of what times he must work four days in advance at the latest.

An employer is required on grounds of the Working Conditions Act to draw up a risk inventory and evaluation (RI&E) and a plan of approach. He must also devote explicit attention in this to the working hours, the risks that these can entail and the way in which he wants to limit the risks.

An employer must take employees' personal circumstances into account as much as possible in the company policy. This pertains to family care duties, but also to other responsibilities, such as education or volunteer work. An employer must consult the works council, employee representation or – in the absence of such – the relevant employees themselves concerning the policy.

Violation: what are the consequences?

Employers must in first instance themselves ensure that the regulations for working time, rest time, breaks and night work are not violated. Employers may not require their employees to work outside the regulations. The works council is also responsible for ensuring that the law is complied with.

Fines

The Labour Inspectorate regularly carries out random checks. If a company is not in compliance with the statutory regulations, the Labour Inspectorate may impose a fine, possibly preceded by a warning. The fines are calculated per person and per day. The maximum height of the fine is legally set at €11,250 (for natural persons) and €45,000 (for legal entities). A repeat offence within 24 months may result in a fine increased by 50%.

Official report

If the violation is of such a nature that the health of children or traffic safety is at stake, an official report can be drawn up and submitted for criminal prosecution.

Schematic overview of the Working Hours Act

		standard
Working time	per shift	12 hours
	per week	60 hours
	per week in a 4-week period	55 hours on average ¹⁾
	per week in a 16-week period	48 hours on average
Rest times	daily rest	11 hours (consecutive) (1 x per week: 8 hours, if necessary because of nature of work or business circumstances)
	weekly rest	36 hours (consecutive), or 72 hours per 14 days (split into periods of at least 32 hours)
Breaks	in the event of > 5.5 hours per shift	30 minutes (possibly 2 x 15 minutes)
	in the event of > 10 hours per shift	45 minutes (possibly 3 x 15 minutes)
	in the event of > 5.5 hours per shift	15 minutes ¹⁾
Sunday rest	Sunday work	no work on Sunday, except if: <ul style="list-style-type: none"> • in accordance with the type of work and stipulated or • necessary in connection with the type of work or business circumstances • agreed with works council (in absence of such: with employees involved) • individual consent
	free Sundays	13 (per 52-week period) any other number ¹⁾ , provided: <ul style="list-style-type: none"> • individual consent if fewer than 13 free Sundays per year

¹⁾ By collective arrangement

		standard
Night work Night shift: > 1 hour of work between midnight and 6 am	working time per shift	10 hours 12 hours, provided: <ul style="list-style-type: none"> • shift is followed by 12 hours of rest • 5 x per 2 weeks • maximum 22 x in 52-week period
	working time per week	40 hours (per 16 weeks), if ≥ 16 night shifts per 16 weeks
	rest time after night shift <i>applies for night shifts ending after 2 am</i>	14 hours (1 x per week: 8 hours, if necessary in connection with type of work or business circumstances)
	rest time after ≥ 3 night shifts	46 hours
	maximum length of series <i>applies if at least one of the shifts in the series is a night shift</i>	7 or 8 ¹⁾
	maximum number <i>applies for night shifts that end after 2 am</i>	<ul style="list-style-type: none"> • 36 night shifts per 16 weeks, or • 140 night shifts per 52 weeks¹⁾, or • 38 hours between midnight and 6 am per 2 consecutive weeks
On-call duty	ban on on-call duty	<ul style="list-style-type: none"> • 14 days free of on-call duty per 4 weeks • 2x2 days per 4 weeks no on-call duty and no work • no on-call duty 11 hours before or 14 hours after a night shift
	working time per 24 hours	13 hours
	working time per week in the event of on-call duty at night <i>applies if on-call duty is assigned between the hours of midnight and 6 am 16 times or more in a 16-week period</i>	<ul style="list-style-type: none"> • average 40 hours (per 16 weeks), or • average 45 hours (per 16 weeks), provided: <ul style="list-style-type: none"> - there is an uninterrupted 8 hours of rest before starting the new shift (in the event of last call between midnight and 6 am), or - 8 hours of uninterrupted rest in the 18 hours following 6 am (if the last call took place between midnight and 6 am and was immediately followed by a new shift).

¹⁾ By collective arrangement

More information

If you have questions after reading this brochure or would like to order more copies, you may contact the Postbus 51 information line at 0800 8051 (free of charge, only in the Netherlands) or look at www.postbus51.nl.

For more information, you can also visit the website of the Ministry of Social Affairs and Employment at www.szw.nl.

Transport

For information about working and rest times in the transport sectors, you can contact the Inspectorate for Transport, Public Works and Water Management at telephone number +31(0)88 489 00 00 or look at www.ivw.nl.

Mining

For information about working and rest times in the mining sector, you can contact the State Supervision of Mines, at telephone +31(0)70 395 65 00 or look at www.sodm.nl.

Healthcare

You can find more information about specific regulations in the healthcare sector in the brochure *Arbeids- en rusttijden in de zorgsector* [Working hours and rest times in the healthcare sector].



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