

PERILS OF THE NIGHT WORKER

February 2008



Introduction

Night working has become an increasing trend in the UK, as productivity and delivery targets are worked on tighter deadlines. There are several advantages of having night workers, but employers must consider the rights that arise along with shifting workers from day to night shifts.

The **Working Time Regulations 1998** provide ample rights covering everything from hours worked to health and safety. Outlined below are the pertinent issues that need to be addressed by any organisation when dealing with night workers.

Night Work

Night work is defined as work between the hours of 11pm and 6am. The parties can agree to alter this time as long as the new period covers midnight to 5am. Any worker who regularly works for 3 hours within this period is described as a night worker.

Night workers should not work more than an average of 8 hours (excluding overtime) within a 24-hour period, or 48 hours per week. This average is calculated over a 17-week period. Employees are not permitted to opt out of these limits.

For night workers who deal with especially hazardous materials or who work in situations that involve mental or physical stress, there is a strict limit of 8 hours per day including overtime, as opposed to an average. Again, this cannot be opted out of by employees.

Switching from Day to Night Working

Unless the employee's contract of employment specifically states that night work will be required, you will need to consult with the employee and gain their agreement to change their working hours. This may often involve increased pay, bonuses or extra benefits.

Health and Safety

Night workers are entitled to free health assessments before they start working on a night shift and to 'regular' assessments thereafter. Assessments can be achieved by asking night workers to complete a medical questionnaire, and providing the medical examinations when concerns are identified. In many cases it will be appropriate to 'assess' employees annually, although this may increase in certain circumstances.

The assessment should take into account the type of work that is performed and the restrictions on the worker under the Working Time Regulations.

Special Consideration

If a worker suffers from any type of problem which is caused or made worse by working at night, they have the right to be transferred to day work if this is possible. In particular, special consideration must be given to new and expectant mothers, or those employees suffering from disabilities.

Young Night Workers

A young worker is one aged between 16 and 17. Young workers are generally not allowed to work at night (which is defined as being between the hours of 10pm to 6am), except in particular industries. A classic example would be work based in hospitals.

A young worker may work between 10pm to midnight and between 4am to 7am if they are employed in agriculture, retail trading, postal or newspaper deliveries, the catering industry, hotels, public houses, restaurants or bakeries. When a young worker is taken on to do any work at any time, they must be provided with a 30-minute rest break (which can be unpaid) after every 4 hours worked.

Before appointing a young worker to work through the night, or on extended hours, there must be a need to:

- Continue or maintain a service or production
 - Respond to a surge in demand for service or product
- and
- No adult available to perform the task
 - The training needs of the young worker are not adversely affected
 - The young worker is allowed an equivalent period of compensatory rest.

Can We Help?

If you need help with night workers in your business or you are experience any issue associated with the employment, performance or conduct of employees, please call us on **0845 603 1610**. Alternatively visit our Website at **www.hrinsight.co.uk**. We look forward to hearing from you!