

Payroll Calculations & the Working Time Regulations



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**AWARD IN PAYROLL
FUNDAMENTALS**

The Regulations

The Organisation of Working Time Regulations (Subsidiary Legislation 452.87) set out the minimum conditions laid out in the EU Directive 2003/88/(2003) concerning certain aspects of the organisation of working time.



Working time

Working time is defined as:

“any period during which the worker is available for service to the employer and is carrying out his activity or duties, and includes any relevant training and any other additional period which is to be treated as working time for the purpose of these regulations under any relevant agreement and "work" shall be construed accordingly”



Scope

- Minimum periods of daily rest
- Weekly rest
- Annual leave
- Breaks
- Maximum weekly working time
- To certain aspects of night work, shift work and patterns of work

These regulations shall apply to all sectors of activity, both public and private (unless otherwise stated in any other law)



Scope

The WT Regulations are superseded by other sectoral regulations (i.e. WROs) are in force

EXCEPT

Where the conditions laid down in the WT Regulations are more favourable than those provided for in the WRO



Periodical Breaks

“rest period” means any period which is not working time and does not include leave to which a worker is entitled under these regulations

Employees are entitled to a rest break for every 6 hours worked, regulated by:

- Collective agreements
- WROs
- Agreements between the employer and employee



Daily & Weekly Rest

Employees are entitled to 11 consecutive rest hours for each 24 hour period worked.

Employees are entitled to a rest period of 24 consecutive hours for each 7 day period (i.e. 1 full day per week), in addition to the 11 consecutive rest hours per day:

- Derogations from this rule may apply (upon obtaining DIER permission) for technical/organisational reasons



Weekly Working Time

Employees cannot work more than 48 hours per week (Mon-Sun), including overtime.

This is to be calculated over a reference period:

- Of 17 weeks; or
- According to collective agreements

For the manufacturing and tourism industries, the reference period is of 52 weeks.



On-Call Hours

Employees who are on-call duty, even if not actively working and even if they are provided with a place to rest by the employer, are still considered to be working and therefore on-call hours constitute working time.

This was decided by the ECJ in several judgments, where it was concluded that the decisive factors are the employee's presence at a place determined by the employer and the fact that they would immediately be ready for work when called upon



Overtime

- Overtime is defined in the EIRA as any hours of work in excess of the normal hours of work
- Overtime: Overtime rate – 1:1.5
- Overtime rate for hours worked on Sundays and PH rate 1 :2 (always check WRO)
- Calculation of Overtime for employees working reduced hours:
 - Hours over and above the reduced hours up to the full 40 hours should be calculated at an equivalent hourly rate.
 - Overtime rates shall then apply to any hours worked over the full 40 hours.

Part-time or roster: shall be calculated in the same way.



Overtime Opt-Out

Employees may voluntarily opt-out of the 48-hour per week maximum, as long as:

- A written agreement is made
- Records of such employees are kept
- Records are available for DIER inspection at any given time
- Employees who do not choose to opt-out are not treated in a more detrimental manner
- Such agreement can be terminated by the employee with 7 days Notice



Annual Leave

Employees are entitled to 24 days (192 hours) vacation leave per year, calculated pro rata in the case of reduced working hours.

Public/National holidays that fall on any day of the week where the full time employee is not scheduled to work – the equivalent in hours of one working day is to be added to the employee's vacation leave entitlement of that year.



Time and Attendance

- Punch clock
- Timesheet (hours worked vs jobs done)
- Palm readers

Reflecting reality of hours worked. HR would review verify and get these reports signed before they are sent to the payroll processor (whether internal or external)



Leave Calculations

Leave entitlement for the year 2022 for an employee working on a full time basis who does not work weekends

Basic 24 days of leave which amount to 192 hours

PH within calendar year 2022 that fell during the weekend = 4 days

Therefore leave entitlement for calendar year 2022 would be:

192 hours + 32 hours = 224 hours





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Leave Calculations

Calculate: Leave entitlement
for the year 2023 for an employee
working on a full time basis who
does not
work weekends

Date	Day	Holiday
01/01/2023	Sun	New Year's Day
10/02/2023	Fri	Feast of St Paul's Shipwreck
19/03/2023	Sun	Feast of St Joseph
31/03/2023	Fri	Freedom Day
07/04/2023	Fri	Good Friday
01/05/2023	Mon	Workers' Day
07/06/2023	Wed	Sette Giugno
29/06/2023	Thu	Feast of St Peter and St Paul
15/08/2023	Tue	Feast of the Assumption
08/09/2023	Fri	Victory Day
21/09/2023	Thu	Independence Day
08/12/2023	Fri	Immaculate Conception
13/12/2023	Wed	Republic Day
25/12/2023	Mon	Christmas Day



Leave Calculations

Leave entitlement for the year 2023 for an employee working on a full time basis who does not work weekends

Basic 24 days which amount to 192 hours

PH within calendar year 2023 that fell during the weekend = 2 days

Therefore leave entitlement for calendar year 2023 would be:

192 hours + 16hours = 208 hours



Leave Calculations

Leave entitlement for the year 2022 for an employee working on a full time basis at reduced hours who does not work on weekends.

Employee works 20 hours a week (4 hour working day)

Employee therefore works a total of 1040 hours per year

Basic 24 days would amount to 96 hours

PH within calendar year 2022 that fell during the weekend = 4 days

Therefore leave entitlement for calendar year 2022 would be:

96 hours + 16hours = 112 hours



Leave Calculations

Calculate: Leave entitlement for the year 2023 for an employee working on a full time basis at reduced hours (20 hour week) who does not work on weekends.



Leave Calculations

Leave entitlement for the year 2023 for an employee working on a full time basis at reduced hours who does not work on weekends.

Employee works 20 hours a week (4 hour working day)

Employee therefore works a total of 1040 hours per year

Basic 24 days would amount to 96 hours

PH within calendar year 2023 that fell during the weekend = 2 days

Therefore leave entitlement for calendar year 2023 would be:

96 hours + 8hours = 104 hours



Leave Calculations

Calculate: Leave entitlement for the year 2023 for an employee working on a full time basis. The employee's employment commenced on 1st March 2023



Leave Calculations

Calculate: Leave entitlement for the year 2023 for an employee working on a full time basis. The employee's employment commenced on 1st March 2023

Employee works 40 hours a week which amounts to 2080 hours per year.

2080 hours per year = 173.33 hours per month (we always calculate the average hours per month)

March – December = 10 months i.e. 1733.33 hours worked for the calendar year 2023



Leave Calculations

Leave entitlement for a full year (Jan – Dec 2023) amounts to 192 hours + 16 = 208 hours.

Leave entitlement for period (March – December) is therefore calculated as follows:

Hrs worked in calendar year x Full calendar year's leave entitlement
Full working hrs in calendar year

$$\frac{1733.33}{2080} \times 200 = 166.66\text{hrs}$$



Other leave entitlement calculations

Leave entitlement for part time workers shall be calculated pro-rata on the number of hours worked.

If the hours worked are not fixed (for example on a roster or shift basis), the leave entitlement is to be calculated pro-rata based on the previous 13 weeks.



Annual Leave

- When employment is terminated, the remaining pro-rated accrual is to be paid out in cash to the employee or availed of as part of the notice period to be worked.
- During leave, bonuses must still be paid out as long as they are not directly related to performance or production output.
- Leave must be taken as days (except for urgent leave) unless otherwise agreed



Annual Leave – Carry Over

A maximum of 50% of leave entitlement may be carried over to the following year, subject to the agreement of both the employer and the employee.

The leave carried over must be utilised first.



Night Work

“night time” means the period between 10 p.m. of any one day and 6 a.m. of the next day;

“night worker” means a worker who:

(a) works at least three hours of his daily working time as a normal course during night time; or

(b) works more than fifty per cent of his annual working time, or such lower proportion as may be specified in appropriate provisions of a relevant collective agreement during night time



Exceptions

The content of the WT Regulations discussed up to now would not apply to workers whose working time is not predetermined and can be determined by the employee, particularly for:

- Managers/others with decision-making power
- Family workers
- Workers officiating at religious ceremonies



Exceptions

Provisions on breaks, daily and weekly rest and night work shall not apply to:

- Cases where employees work far from home (place of rest)
- Security/surveillance activity
- Continuous services (ex. hospitals, utilities, media, transport)
- Foreseeable surges of activity (e. tourism)
- Railway services
- Unforeseeable circumstances, exception events or accidents
- Offshore workers, with some exceptions



Shift Work

“**shift work**” means any method of organising work in shifts whereby workers succeed each other at the same work stations 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

- Daily & weekly rest provisions shall not apply where shifts are close to each other
- Daily rest provisions shall not apply where work is split up over an entire day, such as cleaning staff



Collective Agreements

Collective agreements – employees who are members of a union would be parties to collective agreements.

The provisions of collective agreements are typically more favourable than the law.

It is important for any payroll processor to be aware that the client is a unionised client.

It is important to apply the provisions of the collective agreement prior to initiating payroll as these may impact salary calculations.

Examples: more hours of leave, salary increments , rest, sick leave



Unfair Dismissal

An employee will be considered to have been unfairly dismissed if the reason (or main reason) for dismissal was:

- Refusal to comply with a provision of the employer which violates the content of the regulations
- Refusal to forgo a right provided to employees by virtue of the regulations

Employees may seek recourse before the Industrial Tribunal. Failure to comply with the Regulations is a criminal offence



Ex- Gratia payments

Any lump sum payments not agreed upon in the employment contract should not be taxable as a rule. This treatment should always be verified with the Revenue (CfR)

Never assume – seek rulings when in doubt.

Examples of an ex – gratia payment would be:

- Golden handshake (encouraging early retirement)
- Long service award (for example: to celebrate 10 years of service)



COLA

COLA – Cost of Living Adjustment

Compensation of the rate of inflation of the cost of living. This is usually announced in the budget measures and would be applicable from the 1st of January of the following year. This is also applicable to part timers.

The published COLA rate is an increase per week for example the one announced last October was an increase of €9.90 per week.

€9.90 x 52 = €514.80 (added to your basic annual gross salary with effect 1st January of the following year pro-rata)

Some cases where the salary increment is done mid-year, the employer would state in the contract of employment that the increment is inclusive of the COLA.





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