

AWARD IN PAYROLL FUNDAMENTALS

Lecture 08: Working Time Regulations & Payroll Calculations

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The Working Time Regulations



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”



Rationale

- 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)



Rationale

The WT Regulations are superseded by other sectoral regulations (i.e. WROs) are in force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

For 2024 – 24 days + 6 days = 30 days = 240 hours



Annual Leave

- A minimum period of 4 weeks' leave may not be replaced by allowance in lieu – at least 20 days MUST be vacation leave.
- When employment is terminated, remaining leave due and accrued is to be paid out to employee.
- Statutory bonuses are still to be paid out during vacation leave.
- Leave to be taken by days (except urgent leave), unless otherwise agreed with employer.



Carry Over of Leave

- Maximum of 50% of leave entitlement may be carried over to the following year – subject to agreement between both parties.
- Leave carried over must be utilised first.
- Specific reasons to be accepted.
- If leave is not applied for and refused, it will be forfeited in that year



Public and National Holidays

- Given at full pay, over and above the employee's annual leave entitlement
- If PH falls on a day of rest – given extra leave (pro rata)
- Workers on irregular or varying schedules are given a compensatory leave hours using the 17-week reference period
- those working on a public holiday – paid 2 times



Leave Calculations

Leave entitlement for the year 2024 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 2024 that fell during the weekend = 6 days

Therefore leave entitlement for calendar year 2024 was:

192 hours + 48 hours = 240 hours



Leave Calculations

Leave entitlement
for the year 2024 for an employee
working on a full-time basis who
does not
work weekends

Date	Day	Holiday
1 Jan	Mon	New Year's Day
10 Feb	Sat	Feast of St Paul's Shipwreck
19 Mar	Tue	Feast of St Joseph
29 Mar	Fri	Good Friday
31 Mar	Sun	Freedom Day
1 May	Wed	Workers' Day
7 Jun	Fri	Sette Giugno
29 Jun	Sat	Feast of St Peter and St Paul
15 Aug	Thu	Feast of the Assumption
8 Sep	Sun	Victory Day
21 Sep	Sat	Independence Day
8 Dec	Sun	Immaculate Conception
13 Dec	Fri	Republic Day
25 Dec	Wed	Christmas Day

Leave Calculations

Leave entitlement for the year 2024 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 2024 that fell during the weekend = 6 days

Therefore leave entitlement for calendar year 2024 would be:

96 hours + 24 hours = 120 hours



Leave Calculations

Calculate: Leave entitlement for the year 2024 for an employee working on a full-time basis. The employee's employment commenced on 1st March 2024



Leave Calculations

Calculate: Leave entitlement for the year 2024 for an employee working on a full-time basis. The employee's employment commenced on 1st March 2024

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 2024



Leave Calculations

Leave entitlement for a full year (Jan – Dec 2024) amounts to 192 hours + 48
= 240 hours.

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

$$\frac{\text{Hrs worked in calendar year}}{\text{Full working hrs in calendar year}} \times \text{Full calendar year's leave entitlement}$$

$$\frac{1733.33}{2080} \times 232 = 193.33\text{hrs}$$



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.



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 €5.24 per week.

$€5.24 \times 52 = €272.48$ (added to your basic annual gross salary with effect 1st January of the following year pro-rata)

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



Resource Pack

- <https://dier.gov.mt/en/About-DIER/Publications-and-Archives/Other%20Publications/Documents/Resource%20Pack%202024.pdf>



Section 1: Minimum Weekly Wages 2024

MINIMUM WEEKLY WAGES FOR 2024

	16 years (weekly)	Hourly rate	17 years (weekly)	Hourly rate	18 years and over (weekly)	Hourly rate	Watchmen outdoors (weekly)	Watchmen indoors (weekly)	Part-Time Rates
National Minimum <i>(in absence of an applicable WRO)</i>	€203.92	€5.19	€206.76	€5.17	€213.54	€5.34	€213.54	€213.54	Pro rata
Agriculture & Allied Industries	€203.92	€5.10	€206.76	€5.17	€213.54	€5.34	€213.87	€213.54	Pro rata
Beverage Industries	See next pages for detailed wages								
Canning Industry	€203.92	€5.10	€206.76	€5.17	€213.54	€5.34	€213.54	€213.54	Pro rata
Cargo Clearance & Forwarding Agents' (Burdnars) Employees	<i>Employment of not less than 8 hrs on any one day—equivalent of a day's work.</i>				€222.51	€5.56			Pro rata
Cinemas & Theatres	See next pages for detailed wages								
Clay & Glass Products	€203.92	€5.10	€206.76	€5.17	€213.54	€5.34	€213.54	€213.54	Pro rata
Construction	€204.81	€5.12	€207.39	€5.18	€218.20	€5.46	€220.53	€218.20	Pro rata
Domestic Service	See next pages for detailed wages								
Electronics Industry	€203.92	€5.10	€206.76	€5.17	€213.54	€5.34	€213.54	€213.54	Pro rata
Food Manufacture Industries	€206.25	€5.16	€208.42	€5.21	€213.54	€5.34	€215.87	€213.54	Pro rata
Hire (Cars or Private Buses)	See next pages for detailed wages								
Hospitals & Clinics	See next pages for detailed wages								
Hotels & Clubs	See next pages for detailed wages								
Jewellery & Watches	See next pages for detailed wages								
Laundries	€204.81	€5.12	€207.39	€5.18	€213.54	€5.34	€217.82	€213.54	Pro rata
Leather Goods & Shoes Industries	€203.92	€5.10	€206.76	€5.17	€213.54	€5.34	€215.87	€213.54	Pro rata



Section 2: Other Minimum Entitlements

Industries	Full-Time Hours	Sick Leave <small>(As the equivalent of an hour) See Note 1</small>	Birth Leave <small>(See Note 14)</small>	Marriage Leave	Bereavement Leave	Injury Leave	Jury Leave
Agriculture & Allied Industries	Watchmen <small>See Note 13</small>	48	After 1 year - 12 days full pay	3 days	2 days	1 year	all days full pay
	Other employees	40					
Beverage Industries	Watchmen <small>See Note 13</small>	48	- Less than 1 yr proportionately thereafter - 12 days full pay	3 days	2 days	1 year	all days full pay
	Other employees	40					
Canning Industry	Watchmen <small>See Note 13</small>	48	- Less than 1 yr proportionately thereafter - 12 days full pay - 24 days half pay	3 days	2 days	1 year	all days full pay
	Other employees	40					
Cargo Clearance & Forwarding Agents' (Barramas) Employees	All Employees	40	After 1 year - 15 days full pay - 15 days half pay	3 days	2 days	1 year	all days full pay
Cinemas & Theatres	All Employees <small>See Note 2</small>	46	After first year - 12 days full pay	3 days	2 days	1 year	all days full pay
Clay & Glass Products	Watchmen <small>See Note 13</small>	48	10 days full pay	3 days	2 days <small>See Note 3</small>	1 year	all days full pay
	Other employees	40					
Construction	Watchmen <small>See Note 13</small>	48	After 1 yr - 15 days full pay - 15 days half pay	3 days	2 days	1 year	all days full pay
	Other employees	40					



Time and Attendance



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Time and Attendance

Very important note is to remember that a part time employee has no less rights than a full time employee. The only thing that changes is that everything is calculated pro rata



Time and Attendance

To understand how to calculate payroll through T&A for a given company, one has to first and foremost know the WRO that we are speaking about.



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)



Time and Attendance

Let's Discuss:

- What is T&A?
- What is it used for?
- Identify those who use it



Time and Attendance

What systems are used to record T&A?



Time and Attendance

How is T&A used to calculate overtime?



Time and Attendance

How do we calculate overtime in the following scenarios?

On a Daily basis vs on a weekly basis



Time and Attendance

Part time

What is the extra hours rate for a part timer and when does overtime start?

What is the rate for overtime?



Time and Attendance

Full Time

When does overtime start for a full time employee?

What is the rate used?



Time and Attendance

- Full Time
- Is the overtime of an office employee calculated in the same way as that of a hospitality employee?



Time and Attendance

Do the number of hours worked affect the following:

1. COLA
2. Government bonus
3. Leave/sick leave

