



HR Briefing July 2009

Employment Law Update

This month we review the Working Time Directive and “special case” considerations

What are my obligations as an employer?

All employers should take reasonable steps to ensure that each worker's average working time (inclusive of overtime) does not exceed 48 hours per week.

Workers should be given adequate rest breaks in accordance with the Working Time Directive.

Workers should be given 5.6 weeks’ paid holiday per year (NOTE: this is an increase from 4.8 weeks and came into force on 1 April 2009).

Are there any special considerations?

Different types of workers have different rights, which you should be aware of.

For example, employers should ensure that night workers' do not exceed an average of eight hours per day and those working at night in a role which involves special hazards or heavy physical or mental strain works should not work for more than eight hours per day.

Overnight work/On call work – “working time”?

Where employees are required to stay overnight this is deemed to be working time if the employee is required to be at the workplace and ready for work, even if the employee is asleep for some or all of this time.

Risks of night work and damage limitation

There are many health risks associated with night work and a recent study of nurses and flight attendants working over a 30 year period has shown an increased risk of breast cancer. The Danish Government has even recognised breast cancer developed after nightshift working as an industrial injury.

No health and safety guidance has been issued on the results of the study as yet and it is not known whether UK Courts will follow suit.

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In any case, employers should carry out risk assessments of all their workers, which should include taking into account any new research such as this study.

As part of an employers obligations, night workers should have the opportunity of a free health assessment when starting night work and regularly thereafter.

Employers should also be aware that if a doctor advises that the night work is causing health problems, the worker should be transferred to a day shift where possible.

Employers should also keep records to show that their obligations are being complied with.

Key Recommendations

Employers

- Stay ahead of the game and keep up to date with health and safety guidelines.
- Review your holidays and rest break entitlements for all workers – different workers may require different entitlements.
- Ensure that any night workers are receiving a health assessment.
- Perform regular risk assessments.

If you have any queries on any of the above please contact **Alison Loveday** at alisonl@berg.co.uk to discuss further issues. Alternatively you contact **Alison** on **0161 833 9211**.