**Summary of legislation related to contractual changes**
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***Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time***

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0088:EN:NOT>

Preliminaries:

***Night working***

(9) It is important that night workers should be entitled to a **free health assessment** prior to their assignment and thereafter at **regular intervals** and that whenever possible they should be **transferred to day work** for which they are suited if they suffer from health problems.

(10) The situation of night and shift workers requires that the level of safety and health protection should be **adapted to the nature of their work** and that the organisation and functioning of protection and prevention services and resources should be efficient.

Chapter 3, Article 9 - Health assessment and transfer of night workers to day work

1. Member States shall take the measures necessary to ensure that:

 (b) night workers **suffering from health problems** recognised as being connected with the fact that they perform night work are **transferred whenever possible to day work** to which they are suited.

3. The free health assessment referred to in paragraph 1(a) **may be conducted within the national health system**.

***Rest Periods/ Equivalent Rest***

 (16) It is necessary to provide that certain provisions may be subject to derogations *(deviations from the directive)* implemented, according to the case, by the Member States or the two sides of industry. As a general rule, **in the event of a derogation, the workers concerned must be given equivalent compensatory rest periods**.

CHAPTER 2

Article 3 - Daily rest

Member States shall take the measures necessary to ensure that every worker is entitled to a minimum daily rest period of **11 consecutive hours per 24-hour period**.

Article 4 - Breaks

Member States shall take the measures necessary to ensure that, where the working day is longer than six hours, every worker is entitled to a rest break...

Article 5 - Weekly rest period

Member States shall take the measures necessary to ensure that, per each seven-day period, every worker is entitled to a minimum uninterrupted rest period of **24 hours plus the 11 hours' daily rest referred to in Article 3**.

If objective, technical or work organisation conditions so justify, **a minimum rest period of 24 hours may be applied**.

Article 8 - Length of night work

Member States shall take the measures necessary to ensure that:

(a) normal hours of work for night workers **do not exceed an average of eight hours in any 24-hour** period;

(b) night workers whose work involves special hazards or heavy physical or mental strain do not work more than eight hours in any period of 24 hours during which they perform night work.

CHAPTER 3

Article 13 - Pattern of work

Member States shall take the measures necessary to ensure that an employer who intends to organise work according to a certain pattern takes account of the general principle of **adapting work to the worker**, with a view, in particular, to **alleviating monotonous work** and work at a predetermined work-rate, depending on the type of activity, and of safety and health requirements, especially as regards breaks during working time.

Article 22

 (a) **no employer requires a worker to work more than 48 hours over a seven-day period**, calculated as an average for the reference period referred to in Article 16(b), **unless he has first obtained the worker's agreement to perform such work**;

(b) **no worker is subjected to any detriment by his employer because he is not willing to give his agreement to perform such work;**

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***Human Rights Act 1998***

<http://www.legislation.gov.uk/ukpga/1998/42/contents>

1998 c. 42 Public authorities Section 6

Acts of public authorities..

(1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

(3) In this section “public authority” includes— .

(b) any person certain of whose functions are functions of a public nature

1998 c. 42 SCHEDULE 1 PART I Article 8

***Private and family life***

1 Everyone has **the right to respect for his private and family life**, his home and his correspondence.

2 There shall be **no interference by a public authority with the exercise of this right**...

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***The Health and Safety (Display Screen Equipment) Regulations 1992***

1992 No. 2792 Regulation 4

Daily work routine of users

4. Every employer shall so plan the activities of users at work in his undertaking that their daily work on display screen equipment is periodically interrupted by such **breaks or changes** of activity as reduce their workload at that equipment.

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***The Working Time Regulations 1998 (And special regulations for young people)***

<http://www.legislation.gov.uk/uksi/1998/1833/contents/made>

*Summary:*

* **Minimum daily rest periods of 11 hours**, unless shift-working arrangements have been made that comply with the Regulations.
* **An uninterrupted 20-minute daily rest breaks after 6 hours' work**, to be taken during, rather than at the start or end of working time.
* **Extra protection is available to young workers** (workers aged between 15 and 18). In particular:
* **Young workers** are entitled to a **daily uninterrupted rest break of 30 minutes** after working more than **four and a half hours**.
* **Young workers** are entitled to an **uninterrupted twelve hour break in each 24 hour period** of work.
* **Young workers** are entitled to **weekly rest of at least 48 hours in each seven-day period**. Unlike adult workers, they **cannot be made to take this rest over two days averaged over two weeks**.
* **Young workers** **cannot normally work more than eight hours a day or forty hours a week**. **These hours cannot be averaged out**. There is no "opt out" for young workers.

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***UK Government guidance on night working and young people -***

<https://www.gov.uk/night-working-hours/hours-and-limits>

If someone works at night, there are rules covering the hours they work.

Before someone starts working at night, they must be offered a free health assessment.

**Night time hours and limits**

Night time working hours are usually between **11pm and 6am** - but this can be flexible if agreed between workers and the employer.

Agreement must be in writing. The night time period must:

* be 7 hours long
* include the period between midnight and 5am

 **Staff who regularly work for at least 3 hours during this period are night workers**. Workers may also be a night workers if:

* there’s a collective agreement (between the employer and the workers or their representatives) that states what counts as night work
* it’s likely that they’ll work a proportion of their annual working time during the night

The rules about how long staff work at night are based on average working time, which is usually calculated over a 17-week period. This includes regular overtime but not occasional overtime.

If the workers and the employer both agree as part of a collective or workforce agreement, the working hours can be averaged over a longer period, eg up to 52 weeks.

**Employers must make sure that workers don’t work more than an average of 8 hours in a 24-hour period**. Workers can’t opt out of this working limit.

Employers must keep records of night workers’ working hours to prove they aren’t exceeding night working limits. Employers must keep the records for at least 2 years.

Workers shouldn’t be discriminated against because they refuse to work nights.

***Young workers and staff dealing with special hazards***

Some workers must be treated differently:

* **staff under 18 are not usually allowed to work at night** - there are also other restrictions on when they can work
* night workers who deal with special hazards or whose work involves mental or physical strain can’t work longer than 8 hours in any 24-hour period

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***The Management of Health and Safety at Work Regulations 1999***

These regulations require the employer to review and develop new risk assessments for new work undertaken.

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***The Workplace Health, Safety and Welfare Regulations 1992***

There are implications for sufficient heating, ventilation and lighting for any night work, including provision of a clean working environment and welfare facilities such as toilets, washing & refreshments.

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***The Personal Protective Equipment at Work Regulations 1992***

Personal protective equipment should be provided free of charge with training, there could be implications for night working.

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***The Health and Safety (First-Aid) Regulations 1981.***

Any increase in night working or visitor/student activity will increase the need for first aid provision.