

Employment Fact Sheet: Rest breaks at work

Who is entitled to a rest break at work?

Most workers are entitled to daily and weekly rest breaks, and rest breaks during the course of the working day. Whether you are paid or not for these breaks will depend on what your employment contract says.

There are some workers who have no automatic legal entitlement to a rest break, and there are special rules about rest breaks for young people and lorry or coach drivers (see below).

What rest breaks can you take?

Rest breaks during the working day

If you are aged 18 or over, and your working day is more than 6 hours, you have the right to an uninterrupted rest break of at least 20 minutes unless:

- you are in a particular sort of work, where special rules apply - see below, or
- you are in a particular sort of work which means you have the right to a compensatory rest break - see below.

Your contract of employment may be more generous than this. The law does not say when this break should be taken but government guidelines say that the break should be taken during the day rather than at the beginning or the end. You are entitled to spend your break away from your workstation. Lunch breaks count as rest breaks. If you're a shift worker, your rest break should be in addition to any breaks you get in between shifts.

Daily rest breaks

If you are aged 18 or over, you are entitled to 11 hours' rest in a row between each working day.

Weekly rest breaks

If you are aged 18 or over, you are entitled to take one day's rest in each working week. This may be averaged over a two week period, for example, you would be entitled to two days' rest over a fortnight. A week runs from midnight on Sunday to midnight the following Sunday.

Who is not entitled to specific rest breaks?

The law says that some types of workers are not entitled to specific rest breaks. You may be entitled to a compensatory rest break - see below. If you work in any of the jobs listed below, check your employment contract to see if you are entitled to take any rest breaks.

Workers who do not have an automatic legal right to rest breaks include:-

- couriers, employed taxi drivers and drivers of small goods vehicles. These workers are entitled to 'compensatory rest' (see below) rather than specific rest breaks
- some rail workers. These workers are entitled to 'compensatory rest' (see below) rather than specific rest breaks
- some people working offshore in the oil and gas industries. Where their work place is far away from their home, they are entitled to 'compensatory rest' (see below)
- members of the army, police and civil protection services
- workers in certain industries such as security guards. These workers are entitled to 'compensatory rest' (see below) rather than specific rest breaks.

There are separate rules for **lorry, coach and heavy goods vehicle (HGV) drivers** - see below.

If you're a shift worker and can't take your rest break

If you're a shift worker and you've changed shift, or finished work in the morning before your evening shift, it may not be possible to take your full rest break before starting the new shift. In these circumstances, you should be given a **compensatory rest break**(see below).

Compensatory rest breaks

If you don't have the right to specific rest breaks, or if you are a shift worker and as a result you have to work during what would normally be a rest period, you're still entitled to a rest period. This is called a **compensatory rest break**. This means that you can take the break at a later time. It should be taken within a reasonable time from when you missed the break and should last as long as a specific rest break would have lasted.

If you have missed a rest break

If you've missed a rest break to which you are entitled, your employer must make sure that there's no risk to your health and safety.

Rest breaks for young workers

If you are over school leaving age but under 18, the law says that you cannot usually work more than eight hours per day or more than 40 hours per week. You must have twelve hours rest between each working day and two rest days per week. You are also entitled to a 30 minute rest break if you work for longer than four and a half hours. There are also limits on the hours you can work at night. You cannot usually work between:-

- 10pm and 6am, or if your contract says you must work after 10pm, between 11pm and 7am. There are some exceptions for people who work in hospitals, agriculture, retail work, hotels and catering, bakeries, post/newspaper deliveries, or who work in connection with cultural, artistic, sporting or advertising activities
- midnight and 4am, except in exceptional circumstances.

If you are a young worker and feel you are being made to work longer hours than you should, you may wish to **get help from an experienced adviser** (see further help).

Rest breaks for coach and lorry drivers

If you drive a lorry over 3.5 tonnes or a coach carrying more than nine people - including yourself - on national journeys, or nine people on international journeys, you must not work more than an average of 48 hours per week. This is averaged out over a 17-week period, with a maximum of 60 hours in any one week. This limit does not apply to self-employed drivers.

The following additional rules on taking rest breaks when you are driving, also apply:

- after four and a half hours of driving you must take a rest of 45 minutes
- if have been driving every day for six days you must take a 24- hour rest
- you must not drive for more than 90 hours in a two-week period
- you must have a daily rest break of 11 hours (which can be reduced to nine hours up to three times in any week)

If your employer won't allow you to take a rest break

If your employer does not allow you to take the rest breaks you are entitled to, you could ask to take the time off at a later time. A Human Resources officer or trade union representative can help you do this. If talking to your employer does not work, you could raise a written grievance. If you still need to take matters further, complain to an **industrial tribunal**. There's a strict time limit for doing this. (see below). You should think carefully before you make a claim as it could make relations with your employer worse, or put your job at risk. You should get help from an experienced adviser.

If your employer **dismisses** you or **makes you redundant** because you refuse to work through your rest breaks you may be able to make a claim for **unfair dismissal** to an industrial tribunal. There are **strict time limits** for doing this.

Time limits for making a claim to an industrial tribunal

If you want to make a claim for the right to take rest breaks or for unfair dismissal, you've usually one got within three months from the last time you were refused the right to take a rest break or the date you were dismissed. This time limit applies even if you're raising a grievance or appealing against the decision

Further help

Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB visit www.citizensadvice.co.uk or look under C in your phone book.

Driver and Vehicle Agency

Lorry and coach drivers can get more information about their hours of work from the Driver and Vehicle Agency on **028 9025 4100** or by visiting the website at www.dvni.gov.uk.

Health and Safety Executive for Northern Ireland

You can get further advice from the HSENI freephone Information and Advice service on **0800 0320 121** or from the website at www.hseni.gov.uk.

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