



(COP 14) WORKING HOURS

A Definitions and applicability

Working Hours is the time during which the persons employed are at the disposal of the employer.

Rest periods are time during which the persons employed are not at the disposal of the employer.

The **normal work week** is a maximum of 48 hours, or any number of fewer normal maximum weekly hours that are set either by national or local law or a collective bargaining agreement.

Overtime is hours worked in addition to those of the normal work week.

A **Collective Bargaining Agreement** is a legally enforceable written contract between the management of a company and its employees, represented by a trade union or equivalent, that sets out terms and conditions of work. Collective bargaining agreements must comply with Applicable Law.

Source:

- *ILO Convention 30 – Hours of Work*
www.ilo.org/ilolex/cgi-lex/convde.pl?C030
- *Social Accountability International (SAI) - SA® 8000 Abridged Guidance: 2008 Standard*
www.sa-intl.org/data/n_0001/resources/live/SAI_AbridgedGuidance_SA8000_2008.pdf

The **Working Hours** section of the COP is applicable to Facilities with employees.

B Issue background

Working hours are a fundamental component of safe and humane working conditions. The first ever International Labour Organisation (ILO) Convention in 1919 was on working hours – stipulating a maximum of 48 hours per working week. Excessive working hours in manufacturing and extractive industries remains one of the most regularly raised issues by civil society and trade unions. In addition to concerns about exploitation and impact on family life, there are workplace health and safety risks from excessive working hours.

Long working hours are common in the mining industry, though a combination of remote sites, migrant or expatriate workers, and premium compensation paid for long shifts. Long working hours and inadequate breaks or leave has also been documented in manufacturing industries such as diamond cutting. Customer demands, the ability of the business to deal with those demands, and the desire of workers to work overtime can contribute. Working hours are also strongly linked to wages, such that employees may seek longer hours in order to increase their income. For example, arrangements where workers are paid by the piece, rather than by the hour, can result in long working hours.

All hours worked beyond the legislated or agreed working week is considered overtime. Overtime should be voluntary and not enforced. If workers are forced to work overtime in order to earn the minimum wage, or if they are coerced into working overtime beyond legal limits, this may constitute forced labour. Many agreements between employers and workers require that workers be available to work 'reasonable' overtime or a specific agreed number of hours. Requests to work overtime should take into account health and safety considerations as well as the workers' personal circumstances, including family responsibilities.

The reason for limiting working hours is to promote better work-life balance and reduce workers' stress-related occupational conditions and accident rates. Weekly rest and paid annual leave are a normal part of most worker agreements and must be provided. Where shift rosters, such as at many mine sites, mean that one rest day in seven consecutive working days is not met, alternative arrangements should be agreed in compensation. Special leave, such as maternity and paternity leave and compassionate leave should be provided for in compliance with applicable national laws.

C Key regulations

INTERNATIONAL STANDARDS

The International Labour Organisation has a number of conventions on working hours, weekly rest and annual leave. ILO Convention 1 on Hours of Work (Industry) 1919 set the basic principle for the 8 hours day or 48 hour week. The subsequent ILO Convention 30 on Hours of Work (Commerce and Offices) 1930 reinforced this principle. This has become the basis of many nations' legislation for weekly working hours of 48 hours or less.

Both Conventions 1 and 30 do allow for some departure from these limits in defined circumstances. For example, there are exceptions for categories of employees whose work is by nature intermittent or must be done outside the limits laid down for other employees. There is recognition of the need for temporary exceptions, which should take place under guidelines from national regulators. These include, for example, exceptional or urgent pressures for work or repairs, and arrangements for alternative working hours that are agreed between workers' and employers' organisations and by the Government. There are also exceptions for work that must be carried out continuously by a succession of shifts. In these cases, the weekly maximum is prescribed as 56 hours per week, with weekly rest days compensated by a process secured under national law.

Recommendation 116 on Reduction of Hours of Work 1962 later set out the principle of a 40 hour work week, which was steadily introduced in industrialised countries.

ILO Convention 14 on Weekly Rest (Industry) 1921 and Convention 106 on Weekly Rest (Commerce and Offices) 1957 provides that all workers should be entitled to at least 24 hours consecutive rest each week. Employers may agree to exceptions or alternative arrangements in consultation with trade unions or other worker representatives.

ILO Convention 132 on Holidays with Pay (Revised) 1970 provides that workers should have a guaranteed minimum holiday period per year. This annual leave should be no less than three weeks for one year of service.

ILO Convention 183 on Maternity Protection 2000 provides that women should have access to maternity leave following childbirth. On women's return to work, Convention 183 also makes provision for time during the day to breastfeed.

NATIONAL LAW

Nearly all countries have legislation determining appropriate hours of daily and weekly work, for the country as a whole and/or for specific sectors or jobs. In many countries there will be a fixed number of hours per week maximum, which may vary from 35 to 48 hours per week. This may be a fixed maximum or an average over a period of time. Legislation will also usually stipulate a maximum number of overtime hours that can be worked, along with requirements for weekly rest days and annual holiday entitlements. Many countries make provision for employers to provide maternity and/or paternity leave to workers for the birth of a child.

National law applicable to the business' circumstances may vary from the above ILO Conventions and takes precedence under the RJC System. It is essential to be aware of all relevant legislation and regulation in the jurisdictions of all operations. A failure to comply with laws on working hours, rest and leave can lead to penalties ranging from fines to imprisonment of individuals.

D Suggested implementation approach

The Suggested implementation approach provides general guidance for implementing the mandatory requirements of the Code of Practices. The guidance is not normative and should be seen as a starting point for information and support.

General suggestions for systems to manage implementation of this provision:

- Assign responsibility for setting and overseeing working hours and other rest and leave entitlements to a senior management function, such as human resources.
- Understand the applicable law related to working hours and leave in all countries of operation. Any collective bargaining agreement with trade unions or other worker organisations should deal with working hours, overtime, breaks and leave.
- Develop an effective system for recording the amount of hours worked by each worker, and tracking overtime and leave entitlements. Make sure that managers and workers understand the system so that they can easily record hours and any changes to regular working hours.
- Provide training on the business' working hours arrangements and the recording system to those responsible for day to day management of working hours.
- Where relevant, conduct a risk assessment appropriate to the business' circumstances to assess where there is a risk of maximum working hours being exceeded or leave entitlements being breached.

D Suggested implementation approach (cont)

COP 14.1: NORMAL WORK WEEK:

Members shall comply with Applicable Law on working hours. The normal work week, not including overtime, shall not exceed 48 hours unless higher limits have been set by Applicable Law for the sector in which the Member operates.

Points to consider:

- There is no explicit limit under the COP on the working hours allowed for any work day, but note this is often set by national law.
- Normal work week limits and overtime limits (14.2) apply to managers who have a contract with defined working hours, but do not apply to those managers who genuinely set their own work schedules and working hours.
- Longer working hours may apply to Mining Facilities and similar industrial environments that operate on a roster cycle or rotational shift basis, or in emergency / force majeure situations, however these hours must be in compliance with Applicable Law.
- Production quotas under piece rate or other incentive systems should be set such that the minimum daily quota should be achievable by the majority of workers within an 8 hour shift, and that the majority of workers do not have to work beyond an 8 hour shift to earn at least the minimum wage or the prevailing industry wage. Quota and piece rate incentives should be structured such that a significant portion of the workers exceed the daily quota in order to earn extra pay.
- The normal work week for part-time workers should be calculated on a pro-rata basis against a normal full-time week.
- Where allowed under Applicable Law, hours of work can be calculated as an average over a period of longer than one week. Formal and procedural requirements may be attached to such calculations, such as obtaining permission from the relevant authorities, and there may be limits to the period during which such calculations can be made.

MAXIMUM WORKING HOURS

Previously the RJC COP defined a limit of overtime hours as 12 hours per week. The revised COP defines maximum working hours through the combined sum of the normal work week and overtime hours not exceeding 60 hours per week.

The change is designed to accommodate the seasonal nature of the jewellery supply chain. Some companies set a shorter normal work week, which allows more flexibility for expanded hours during peak demand.

Since in all cases, the normal work week must be at or above minimum wage and overtime hours are paid at a premium rate, workers can benefit from these kinds of arrangements. The wider band of working hours can also greatly assist with production planning.

COP 14.2: OVERTIME:

If overtime work is required for business needs, Members shall ensure that:

- Overtime work is requested under a voluntary overtime system. Required overtime is permitted only where it is within the limits allowed under Applicable Law or Collective Bargaining Agreements.**
- The sum of the normal work week and overtime hours shall not exceed 60 hours in a week unless defined otherwise by Applicable Law or permitted under a Collective Bargaining Agreement.**

D Suggested implementation approach (cont)

Points to consider:

- The reason for limiting working hours is to promote better work-life balance and reduce workers' stress-related occupational conditions and accident rates.
- Members should always try to make allowances for the personal and domestic circumstances of individual workers when requesting overtime. Members should make provision for pregnant or nursing mothers or people with disabilities. Children should not work overtime (see [Child Labour](#)).
- In the absence of trade unions, as may frequently be found in countries such as India, arrangements setting out required overtime may be established through written records of meetings between the employer and representatives who have been freely designated by the workers, without obstruction or intervention from the employer. For more information on determining conformance in such situations, see the boxed text – *Collective Bargaining Agreements and Working Hours and Remuneration*, in the guidance chapter for [Freedom of Association and Collective Bargaining](#).
- Collective bargaining agreements do not take precedence over the Applicable Law. If the Applicable Law does not permit the maximum of 60 hours in a week of combined normal work week and overtime to be exceeded via a collective bargaining agreement, then exceeding these hours would be a non-conformance.
- Where allowed under Applicable Law, hours of work including overtime may be calculated as an average over a period of longer than one week.

INDIA - DIAMOND CUTTING AND POLISHING SECTOR – OVERTIME VARIATIONS

The jewellery supply chain, because of the high value of inventory, responds to seasonal peaks in consumer demand, such as around Valentine's Day and Christmas in Europe and the US. In India, a major diamond cutting and polishing sector, this translates into a seasonal peak production period before the Hindu annual Diwali holiday, which falls between mid-October and mid-November.

Programs such as the De Beers Best Practices Principles (BPP) have worked to proactively address working hours in the diamond cutting and polishing sector in India. After research into patterns of hours and workers agreement with overtime hours, BPP permits averaging of total working hours over one year to accommodate this period. The overtime must be voluntary and compensated properly, and BPP hosts a whistleblowing hotline for workers to raise concerns with them directly.

RJC recognises that Members aim to bring their practices into conformance with the RJC Code of Practices, and that depending on the circumstances, this may take time. The following guidance can be used by Members and Auditors in assessments of conformance with the [Working Hours](#) provision, relating to averaging of working hours including overtime under 14.2b (noting that all other requirements of 14 and 15 must still apply):

Conformance:

- Overtime is within applicable limits and evidence that workers have right to refuse overtime.

Minor Non-conformance:

- Average working hours over the year, including overtime, within applicable limits and evidence that it is voluntary.

Major Non-conformance:

- Average working hours over the year, including overtime, above applicable limits and/or evidence that it is not voluntary.

This Guidance may be applied where similar scenarios arise in other countries. For questions or clarifications relating to similar issues in other countries, contact RJC.

D *Suggested implementation approach (cont)*

COP I4.3: REST DAYS:

Members shall provide all Employees with at least one rest day in seven consecutive working days in accordance with ILO Convention 14. Work time exceeding this limit is permitted only under a Collective Bargaining Agreement and/or Applicable Law that allows for work time averaging including adequate rest periods.

Points to consider:

- When work time averaging has been agreed through a collective bargaining agreement, make sure that workers occupational safety and health has been assessed and is not being compromised.
- One day off should be interpreted to mean at least 24 consecutive hours.
- If workers must work on a rest day, an alternative consecutive 24 hours should be provided within that same seven-day period or immediately following.
- The equivalent of at least one day off for every seven-day period will be provided to Employees operating on a roster cycle at Mining Facilities.

COP I4.4: LEAVE:

Members shall provide Employees with all legally mandated public holidays and leave, including maternity and paternity, compassionate and paid annual leave. Where no Applicable Law exists, paid annual leave shall be provided in accordance with ILO Convention 132.

Points to consider:

- Where commonly observed holidays require operations to be temporarily shut down at certain times of the year, the period of vacation may be set off against annual leave.
- Where allowed under Applicable Law, a collective bargaining agreement may provide for swapping alternative periods of leave in lieu of public holidays.

CHECK:

- Do you have a system in place for recording the amount of hours worked by each worker, and for tracking overtime and leave entitlements?
- Are you aware of and do you comply with applicable law related to working hours and leave in all countries of operation?
- If you use production quotas or piece rate systems, do they allow the minimum daily quota to be achievable by the majority of workers within an 8 hour shift?
- Is any required overtime within the limits allowed under Applicable Law or Collective Bargaining Agreements? Otherwise, is all overtime voluntary?
- Is the sum of the normal work week and overtime hours within the limit of 60 hours in a week? If not, is it in compliance with Applicable Law or a Collective Bargaining Agreement?
- Is at least one rest day in 7 consecutive working days provided? If not, does the work time comply with a Collective Bargaining Agreement or applicable law that allows for work time averaging including adequate rest periods?

E Further information

The following websites have further information on working hours, rest and leave:

- Employers and Work-Life Balance (UK)
www.employersforwork-lifebalance.org.uk/
- Fair Labour Association (FLA) - FLA Workplace Code of Conduct and Compliance Benchmarks (2011)
www.fairlabor.org/sites/default/files/fla_complete_code_and_benchmarks.pdf
- International Labour Organisation (ILO) Convention 30 – Hours of Work
www.ilo.org/ilolex/cgi-lex/convde.pl?C030
- International Labour Organisation (ILO) Conventions 1, 14, 132 and 183: (links to text)
www.ilo.org/dyn/normlex/en/f?p=1000:12000:0::NO::
- International Labour Organisation (ILO) Better Work - Guidance Sheet 8: Working Time
betterwork.com/global/wp-content/uploads/8-Working-Time.pdf
- International Labour Organisation (ILO) – Conditions of Work and Employment Branch (TRAVAIL)
www.ilo.org/public/english/protection/condtrav/database/
- International Labour Organisation (ILO) – Working Time around the World (2007)
www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_104895/lang--es/index.htm
- International Labour Organisation (ILO) – Q&As on business and working time (2012)
www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_TIM_FAQ_EN/lang--en/index.htm
- Social Accountability International (SAI) - SA@ 8000 Abridged Guidance: 2008 Standard
www.sa-intl.org/data/n_0001/resources/live/SAI_AbridgedGuidance_SA8000_2008.pdf
- The Factories Act, 1948 as amended by the Factories (Amendment) Act, 1987 (India)
www.ilo.org/dyn/natlex/docs/WEBTEXT/32063/64873/E87IND01.htm