

Working Hours Act (1982:673)

Amendments: up to and including SFS 2005:428

Scope

Section 1 This Act shall apply to all activities in which an employee performs work on behalf of an employer, subject to the restrictions referred to in Section 2.

Chapter 2, Section 1 of the Work Environment Act (1977:1160) contains general protection provisions of importance for the arrangement of working hours. Chapter 5 of that Act contains special provisions concerning working hours for minors. (SFS 1996:360)

Section 2 This Act does not apply to the following:

1. work performed under such circumstances that it cannot be deemed the employer's responsibility to supervise the manner in which the work is structured;
2. work performed by an employee who, taking into account the duties and conditions of employment, occupies a managerial or comparable position or by an employee who, taking into account the nature of her or his duties, is entrusted with the structuring of her or his own working hours;
3. work performed in the employer's household;
4. work on board a ship;
5. work within the scope of the Working Hours for Certain Road Transport Work Act (2005:395).

The Government, or the authority appointed by the Government, may prescribe that this Act shall apply to work on board a ship that is exempted from the provisions concerning resting time contained in the Resting Time for Seamen Act (1998:958).

The provisions contained in Section 10 a, Section 13, first paragraph, Section 13 a and Section 14, third paragraph, second sentence do not apply when the Working Hours, etc. of Mobile Workers in Civil Aviation Act (2005:426) applies or within government operations such as for example the Armed Forces, the Police and protection and emergency services for work that is special for such operations and which is of such a kind that a conflict cannot be avoided with the 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.

The Working Hours, etc. of Mobile Workers in Civil Aviation Act contains provisions on annual working time and days free of all duty at the place of posting for such mobile workers. (SFS 2005:428)

Section 3 Exemptions from the implementation of the whole of this Act or deviations from the provisions of Sections 5 and 6, Section 7, second paragraph, Sections 8 - 10 a, Sections 12 - 14 and Section 15, second and third paragraphs, may be made through collective bargaining agreements concluded or approved by a central employees' organisation. Furthermore, work breaks may be exchanged for meal breaks under such collective bargaining agreements. However, deviations from Section 10 a may not permit a calculation period in excess of twelve months.

Deviations from Section 8, Section 9, second and third paragraphs, Section 10 and Section 13, second paragraph may also be made under a collective bargaining agreements concluded by a local employees' organisation. However, such deviations shall not be valid for more than one month after the date on which the agreement was concluded.

An employer bound by such a collective bargaining agreement referred to in the first and second paragraphs of this Section may also apply the agreement to employees who are not members of the contracting employees' organisation but who are engaged in work to which the agreement refers.

Exemptions from the scope of this Act in its entirety and deviations from Sections 10 a, Section 13, first paragraph, Section 13 a, Section 14 and Section 15, second and third paragraphs and the exchange of work breaks for meal breaks according to this Section may be made only under the precondition that they do not entail that less favourable conditions shall be applied for the employees than as prescribed by the Directive 2003/88/EC of the European Parliament and of the Council. An agreement is invalid to the extent it entails that less favourable conditions shall be applied for the employees than as prescribed by the Directive. (SFS 2005:165)

Section 4 The Government, or the authority appointed by the Government, may issue separate regulations concerning the Total Defence that deviate from this Act.

Regular working hours and on-call hours

Section 5 Regular working hours may not exceed 40 hours per week.

Where the nature of work or working conditions generally so demand, working hours may amount to on average 40 hours per week for a period of not more than four weeks.

The week shall be deemed to begin on Monday, unless another arrangement is applied at the workplace.

Section 6 Where the nature of the activity demands that an employee be at the employer's disposal at the workplace in order to carry out work if necessary, on-call hours may be worked at a rate of not more than 48 hours per employee over a four-week period or 50 hours over a calendar month. On-call hours shall not be deemed to include time spent by the employee carrying out work on the employer's behalf.

Overtime

Section 7 Overtime comprises working hours in excess of regular working hours according to Section 5 and on-call hours according to Section 6. Where other regular working hours or on-call hours apply under a collective bargaining agreement concluded in the manner stated in Section 3, first paragraph, or following a deviation consented to by the Swedish Work Environment Authority under Section 19, first paragraph, overtime shall instead, in the context of full-time work, be deemed to mean working hours in excess of regular working hours and on-call hours according to the agreement or consent.

When calculating overtime, compensatory leave or other leave of absence that is taken during the employee's regular working hours or on-call hours shall be deemed to be the equivalent of completed regular working hours or on-call hours. (SFS 2000:766)

Section 8 Where additional working hours are required, overtime hours may be worked at a rate of not more than 48 hours over a period of four weeks or 50 hours over a calendar month, subject to a maximum of 200 hours per calendar year (general overtime).

Section 9 Where a natural disaster or accident, or other similar circumstance that could not have been foreseen by the employer has caused an interruption in business or caused imminent danger of such interruption, or injury to life, health or property, overtime hours may be worked to the extent conditions so demand (emergency overtime).

If there is a local employees' organisation at the workplace and the sector covered by the agreement applies to the work, emergency overtime may only be worked where the employer promptly notifies the organisation in respect of the overtime work.

Emergency overtime may not be worked for a period of more than 48 hours from the commencement of work without the submission of an application for authorisation for the work with the Swedish Work Environment Authority. (SFS 2000:766)

Additional hours in conjunction with part-time employment

Section 10 Additional hours are working hours that, in the context of part-time employment, exceed the employee's regular working hours and on-call hours under the employment contract. The provisions of Section 7, second paragraph, concerning the computation of overtime shall also apply to the computation of additional hours.

Where there is a special need for increased working hours, additional hours may be worked at a rate of not more than 200 hours over a calendar year (general additional hours). Additional hours may also be worked under the conditions stated in Section 9 concerning emergency overtime.

The aggregate working hours

Section 10 a The aggregate working hours during each period of seven days may amount to on average at most 48 hours during a calculation period of at most four months. When calculating the average working hours, annual leave and absence on account of sickness during times when the employee would otherwise have worked should be equated with working hours performed. (SFS 2005:165)

Records concerning on-call hours, overtime and additional hours

Section 11 The employer shall maintain records in respect of on-call hours, overtime and additional hours. Employees are entitled, personally or through a representative, to inspect such records. The same right shall apply to trade union organisations that represent employees at the workplace.

The Government or, if decided by the Government, the Swedish Work Environment Authority, may issue regulations concerning the manner in which the records referred to in the first paragraph are to be maintained. (SFS 2000:766)

Disposition of working hours, etc.

Section 12 Any employer who engages an employee for work that is not of a temporary nature shall give the employee not less than two weeks' notice of changes concerning the disposition of regular working hours and on-call hours. However, shorter notice may be given if warranted by the nature of the activity or unforeseeable events.

Section 13 All employees shall have at least eleven hours consecutive hours of free time for every period of twenty-four hours (daily rest period). Deviations may be made temporarily provided this is caused by some special circumstance that it was not possible to anticipate by the employer, subject to the precondition that the employee is given corresponding compensatory leave.

The hours between 00.00 and 05.00 shall be included in the daily rest period that all employees are entitled to. Deviations may be made if the work, having regard to its nature, the needs of the general public or other special circumstances, must be carried out between 00.00 and 05.00. (SFS 2005:165)

Section 13 a Working hours for night work may for every period of twenty-four hours not exceed eight hours on average during a calculation period of at most four months. When making the average calculation a deduction shall be made from the calculation period of twenty-four hours for each period of seven days commenced. Annual leave and absence on account of sickness during times when the employee would otherwise have worked should be equated with working hours performed.

However, night workers whose work involves particular risks or great physical or mental effort may not work more than eight hours during each period of twenty-four hours that they perform work during the night. Deviations may be made temporarily, provided this is caused by some special circumstance that could not have been anticipated by the employer, subject to the precondition that the employee is allowed corresponding compensatory leave.

Night worker means a person who normally performs at least three hours of her or his working shift during the night or will probably perform at least one third of her or his annual working time during the night. Night means a period between 22.00 and 06.00. (SFS 2005:165)

Section 14 Employees are entitled to not less than thirty-six consecutive hours of free time (weekly rest) within every period of seven days. This weekly rest shall not include stand-by hours when an employee is permitted to stay away from the workplace but must remain at the employer's disposal in order to carry out work should the need arise.

Weekly rest shall take place at weekends, to the extent possible.

Temporary exceptions may be made to the first paragraph where required by special circumstances that the employer could not have foreseen. Such deviation may only be made subject to the precondition that the employee is allowed corresponding compensatory leave. (SFS 2005:165)

Section 15 Rest intervals are defined as interruptions in daily working hours during which employees are not obliged to remain at the workplace.

The employer shall state the duration and disposition of rest intervals in advance and as exactly as circumstances permit.

Rest intervals are to be arranged in such a way that the employees do not carry out work for more than five consecutive hours. The number, duration and disposition of rest intervals must be satisfactory with regard to working conditions.

Section 16 Rest intervals may be substituted by meal breaks at the workplace where required due to working conditions, or due to illness or other events that the employer could not have foreseen. Meal breaks of this nature shall be included in the calculation of working time.

Section 17 The employer must organise work so as to enable employees to take breaks, in addition to rest intervals, that are required during working hours.

Special breaks may be arranged in lieu of the above where working conditions so demand. In such circumstances, the employer must specify the duration and timing of such breaks in advance and as exactly as circumstances permit.

Breaks shall be included in the calculation of working time.

Section 18 Notwithstanding Sections 13 - 17, the Government, or the authority appointed by the Government, may issue separate regulations concerning the disposition of working hours for road transport and civil aviation.

Exemptions by the National Board of Occupational Safety and Health

Section 19 Where a collective bargaining agreement as referred to in Section 3 cannot be concluded, the Swedish Work Environment Authority may allow the following where there is special cause:

1. deviations from Section 5, Section 6, Section 9, second and third paragraphs, and Section 12;

2. exemptions from Section 8 regarding the restriction of overtime over a four-week period or over a calendar month;
3. overtime in addition to general overtime in a maximum amount of 150 hours per calendar year,
4. further additional hours in addition to general additional hours in a maximum amount of 150 hours per calendar year;
5. deviations from Section 10 a, Sections 13 - 14 and Section 15, second and third paragraphs.

The Swedish Work Environment Authority's decision under this Section may not entail that less favourable conditions shall apply for the employees than as prescribed by the Directive 2003/88/EC of the European Parliament and of the Council. This also applies to authorisation under Section 9, third paragraph. (SFS 2005:165)

Supervision

Section 20 The Swedish Work Environment Authority shall supervise compliance with this Act and regulations issued pursuant thereto. (SFS 2000:766)

Section 21 The Swedish Work Environment Authority is entitled to request and obtain any information and documents necessary for supervision purposes.

For supervision purposes, the Swedish Work Environment Authority is entitled to gain access to workplaces. The police authorities shall afford such enforcement assistance as may be required for this purpose. (SFS 2000:766)

Section 22 The Swedish Work Environment Authority may issue any orders or prohibitions required to ensure compliance with this Act and the regulations issued pursuant thereto.

Orders or prohibitions decided by the Swedish Work Environment Authority may be issued subject to a default fine. (SFS 2000:766)

Penal sanctions etc.

Section 23 An employer who intentionally or negligently fails to comply with an order or prohibition issued against him under Section 22 may be fined or sentenced to imprisonment for not more than one year. However, this does not apply where such order or prohibition was issued subject to a default fine. (SFS 2005:165)

Section 24 A fine may be imposed on an employer who intentionally or negligently

1. engaged an employee contrary to Sections 5 - 10 a, Section 12, Section 13 or Sections 14 - 16, or in breach of Section 11 or regulations issued pursuant thereto, without obtaining an exemption under Section 3 or 19;

2. furnished incorrect information concerning matters of importance where the Swedish Work Environment Authority has requested information or documents under Section 21, first paragraph. (SFS 2005:165)

Section 24 a An employer who applies such provisions in a collective bargaining agreement that are contrary to Section 3, fourth paragraph, shall pay damages for the loss that arises and for the violation that has occurred.

If it is reasonable to do so, the damages may be reduced or lapse completely. (SFS 1996:360)

Section 25 Where an employer fails to comply with her or his obligations under a collective bargaining agreement referred to in Section 3, the sanctions contained in the agreement or in the Employment (Co-determination in the Workplace) Act (1976:580) shall apply.

Overtime charges

Section 26 An employer who has infringed the provisions of Section 8 or 9 without authorisation under a collective bargaining agreement as referred to in Section 3 or without having obtained an exemption under Section 19, shall be liable for special charge (overtime charge). The natural or legal person carrying on the activity in which the infringement has been committed shall be liable to pay the charge.

For every hour of unauthorised overtime and for every employee engaged in breach of Section 8 or 9, the overtime charge shall equal one per cent of the base amount under the National Insurance Act (1962:381) applicable at the time at which the infringement was committed.

The charge may be reduced or waived in special circumstances.

Section 27 Matters concerning overtime charges shall be adjudicated by a general court upon application that shall be made by a public prosecutor within two years after the time at which the infringement was committed. Such applications shall be governed by the provisions of the Code of Judicial Procedure regarding prosecution for criminal offences not subject to more severe penalties than fines, and also to the provisions concerning seizure in criminal cases. No overtime charge may be levied more than five years after the time at which the infringement was committed. Overtime charges are payable to the State.

A decision imposing an overtime charge shall be immediately communicated to the County Administrative Board. The charge shall be payable to the County Administrative Board within two months of the date when the decision entered into final legal force. Notice of the above shall be included in the record of decision. If the charge is not paid within this period, an arrears charge shall be imposed under the Arrears Charges Act (1997:484). The unpaid overtime charge and the arrears charge shall be submitted for debt collection. The Government may prescribe that collection measures need not be instituted in respect of small amounts. The Debt Recovery (State Claims, etc.) Act (1993:891) contains provisions regarding collection measures. Collection measures may not be instituted more than five years after the decision became final. (SFS 1997:527)

Appeals

Section 28 Repealed (SFS 2000:766).

Section 29 Decisions in respect of regulations by the Swedish Work Environment Authority in matters referred to in Section 19, first to fourth paragraphs, or decisions concerning permits under Section 9, third paragraph, may be appealed against to a general administrative court.

Leave to appeal is required for appeal to an Administrative Court of Appeal.

Appeals against other decisions made under this Act by the Swedish Work Environment Authority may be made to the Government.

Decisions by the National Board of Occupational Safety and Health concerning regulations may not be appealed against. (SFS 2000:766)

Section 30 In order to safeguard the interests of employees in a matter subject to this Act, appeals against decisions referred to in Section 28 or 29 may be brought by the senior safety ombudsman or, in the absence of a senior safety ombudsman, another safety ombudsman. If there is no safety ombudsman, an employees' organisation may bring an appeal where the matter concerns its members' interests and the organisation has previously expressed its views in the matter.

Chapter 6 of the Work Environment Act (1977:1160) contains provisions concerning safety ombudsmen.

Section 31 The Swedish Work Environment Authority may refer particularly important questions concerning regulations to the Government before acting in such matters. (SFS 2000:766)

Section 32 The Swedish Work Environment Authority may order that its decision shall take effect immediately. (SFS 2000:766)

Transitional provisions

SFS 1992:637

This Act shall enter into force on 1 January 1993. However, previous provisions shall continue to apply with respect to matters regarding overtime charges that became due and payable prior to the entry into force of this Act.

SFS 2005:165

This Act shall enter into force on 1 July 2005. Except for Section 2, first paragraph, item 5 and the provisions regarding the Working Hours, etc. of Mobile Workers in Civil Aviation Act (2005:426), the new provisions shall only apply from and including 1 January 2007 if the employer on 30 June 2005 and thereafter up to and including 31 December 2006 is bound by a collective bargaining agreement that regulates issues relating to working hours. (SFS 2005:428)