

**A.L. 247 ta' l-2003**

**ATT TA' L-2002 DWAR L-IMPIEGI U R-RELAZZJONIJIET  
INDUSTRIJALI  
(ATT NRU. XXII TA' L-2002)**

**Regolamenti ta' l-2003 dwar l-Organizzazzjoni tal-Hin  
tax-Xoghol**

BIS-SAHHA tas-setghat moghtija bl-artikolu 6 ta' l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, il-Viċi Prim Ministru u Ministru għall-Politika Soċjali għamel ir-regolamenti li ġejjin:-

**1.** (1) It-titolu ta' dawn ir-regolamenti hu Regolamenti ta' l-2003 dwar l-Organizzazzjoni tal-Hin tax-Xoghol. Titolu u bidu fis-sehh.

(2) Dawn ir-regolamenti għandhom jidhlu fis-sehh f'dik id-data li l-Ministru jista', b'ordni jew ordnijiet, jordna, u jistghu jkunu appuntati dati differenti għal disposizzjonijiet jew finijiet differenti ta' dawn ir-regolamenti jew ta' setturi differenti ta' impiegi.

**2.** (1) F'dawn ir-regolamenti, kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort' ohra: Tifsir.

“l-Att” tfisser l-Att ta' l-2002 dwar Impiegi u r-Relazzjonijiet Industrijali;

“Direttur” tfisser id-Direttur responsabbli għall-impiegi u relazzjonijiet industrijali;

“haddiem qarib” tfisser qarib tal-prinċipal sat-tieni grad, axxendenti jew dixxendenti, kif ukoll persuni fil-kustodja legali ta' l-impjegat;

“haddiem bix-xift” tfisser kull haddiem li l-iskeda tax-xoghol tiegħu tagħmel parti minn sistema ta' xoghol bix-xift;

“haddiem mobbli” tfisser kull haddiem impjegat, bhala membru ta' grupp ta' impjegati li jivvjaġġaw jew itiru, minn intrapriża li topera servizzi ta' trasport għal passigġieri jew merkanzija bl-art, bl-ajru jew f'kanali interni;

“haddiem ta’ billejl” tfisser haddiem li:

(a) jahdem normalment mill-inqas tliet sghat mill-hin tax-xoghol tieghu ta’ kuljum tul il-lejl; jew

(b) jahdem tul il-hin tal-lejl aktar minn 50 fil-mija tal-hin tax-xoghol annwali tieghu, jew dik il-proporzjon inqas kif tista’ tkun speċifikata f’disposizzjonijiet adatti ta’ ftehim kollettiv rilevanti:

Izda għall-finijiet tal-paragrafu (a) ta’ din it-tifsira, il-frazi “normalment” tfisser dawk l-okkażjonijiet meta haddiem jahdem din ix-xorta ta’ sghat fil-maġġoranza tal-ġranet li fihom jahdem;

“hin tal-lejl” tfisser il-perjodu bejn l-10 ta’ filgħaxija ta’ ġurnata u s-6 ta’ l-ghada filghodu;

“hin tax-xoghol” tfisser kull perjodu li tulu l-haddiem ikun aċċessibbli biex jagħti servizz lill-prinċipal u li fih ikun qed jaqdi l-attivitajiet jew dmirijiet tiegħu, u jinkludi kull perjodu ta’ tahrig rilevanti u kull perjodu addizzjonali iehor li għandu jkun ittrattat bhala hin tax-xoghol għall-finijiet ta’ dawn ir-regolamenti taht kull ftehim rilevanti u “xoghol” għandha tkun imfissra b’dan il-mod;

“Ministru” tfisser il-Ministru responsabbli għall-impiegi u r-relazzjonijiet industrijali;

“mistrieh adegwat” tfisser tali perjodi ta’ mistrieh li t-tul tagħhom hu espress f’unitajiet ta’ hin u li huma biżżejjed twal u kontinwi biex jiżguraw li, htija ta’ gheja u sistemi ta’ hinijiet ta’ xoghol irregolari ohra, il-haddiema ma jikkaġunawx leżjoni lilhom infushom, lil haddiema shabhom jew lil ohrajn;

“perjodu ta’ mistrieh” tfisser kull perjodu li m’hux hin tax-xoghol u ma tinkludix *leave* li għalih haddiem ikun intitolat taht dawn ir-regolamenti;

“prinċipal” tinkludi soċjetà, kumpannija, assoċjazzjoni jew korp iehor ta’ persuni, kemm jekk vestiti b’personalità legali kemm jekk le, u f’relazzjoni ma’ haddiem tfisser il-persuna li magħha l-haddiem ikun jew, fil-każ meta l-impieg spicċa, kien impjegat;

“servizzi ta’ protezzjoni ċivili” jinkludu l-pulizija, brigati tat-tifi tan-nar u servizzi ta’ ambulanza, is-servizzi tas-sigurtà u tas-servizzi sigrieti, ufficjali tad-dwana u ta’ l-immigrazzjoni, is-servizz tal-habs, kull servizz ta’ salvataġġ volontarju, ufficjali ta’ sigurtà tal-port u l-ajruport, u kontrolluri tat-traffiku ta’ l-ajru;

“xoghol bix-xift” tfisser kull metodu ta’ organizzazzjoni tax-xoghol bix-xiftijiet li bihom haddiema jidhlu wara xulxin suċċessivament fl-istess lant tax-xoghol skond ċerta sistema fissa, inkluża sistema rotattiva, u li tista’ tkun kontinwa jew mhux kontinwa, li tohloq il-htieġa li haddiema jahdmu f’hinijiet differenti tul perjodu speċifiku ta’ ġranet jew ġimghat;

“xoghol lil hinn mill-kosta” tfisser xoghol maħdum l-aktar fuq jew minn fuq stallazzjonijiet lil hinn mill-kosta inklużi pjattaformi għat-thaffir taż-żejt, direttament jew indirettament f’konnessjoni ma’ l-esplorazzjoni, estrazzjoni jew esplojtazzjoni ta’ rizorsi minerali, inklużi idrokarburi, u għadis f’konnessjoni ma’ dawn l-attivitajiet, kemm jekk isiru minn stallazzjoni lil hinn mill-kosta jew minn bastiment;

(2) Bla hsara għad-disposizzjonijiet tal-paragrafu (1) ta’ dan ir-regolament, kliem u frażijiet użati f’dawn ir-regolamenti għandu jkollhom, kemm-il darba r-rabta tal-kliem ma tkunx tehtieġ xort’ ohra, it-tifsira mogħtija lilhom fl-Att.

**3.** (1) Dawn ir-regolamenti għandhom jiftiehm u bħala Ordni Standard Nazzjonali u jkunu jippreskrivu l-htieġiet minimi għall-organizzazzjoni tal-hin tax-xoghol.

Skop u applikabilità tar-regolamenti.

(2) Dawn ir-regolamenti għandhom japplikaw:

(a) għall-perjodi minimi ta’ mistrieħ kuljum, mistrieħ kull ġimgha u *leave* annwali, u għal waqfiet mix-xoghol, u

(b) għal hin tax-xoghol massimu tul il-ġimgha; u

(ċ) għal ċerti aspetti ta’ xoghol billejl, xoghol bix-xift u sistemi fissi ta’ xoghol; u

(d) sakemm ma jkunx provdut mod ieħor f’dawn ir-regolamenti jew f’xi liġi ohra applikabbli, dawn ir-regolamenti għandhom japplikaw għas-setturi kollha ta’ attività, kemm pubblika kemm privata.

(3) Dawn ir-regolamenti ma għandhomx japplikaw:

(a) meta jkun hemm fis-seħħ leġislazzjoni ohra li tippreskrivi disposizzjonijiet aktar speċifiċi dwar l-organizzazzjoni tal-hin tax-xoghol għal ċerti okkupazzjonijiet jew attivitajiet okkupazzjonali;

(b) għal bahhara abbord bastiment li jbahhar, kemm jekk dan ikun propjetà pubblika kemm jekk privata.

(4) Dawn ir-regolamenti għandhom ikunu applikabbli bla preġudizzju għall-introduzzjoni u l-implimentazzjoni ta' disposizzjonijiet f'xi ftehim kollettivi jew f'xi ftehim iehor li jsir bejn prinċipali u impjegati, li huma aktar favorevoli għall-harsien tas-sigurtà u s-saħħa tal-haddiema.

(5) Dawn ir-regolamenti għandhom jinqraw u jiftiehem flimkien mad-disposizzjonijiet ta' kull leġislazzjoni dwar saħħa u sigurtà applikabbli u, fil-każ ta' konflitt, għandhom japplikaw dawn ir-regolamenti.

Mistrieħ ta' kuljum.

**4.** Kull haddiem għandu jkollu d-dritt għal perjodu ta' mistrieħ minimu kull jum ta' 11-il siegħa konsekuttiva kull perjodu ta' 24 siegħa li tulhom il-haddiem jaħdem għall-prinċipal tiegħu.

Waqfiet ta' mistrieħ.

**5.** (1) Kull haddiem għandu jkollu d-dritt għal waqfa ta' mistrieħ meta l-ġurnata tax-xogħol tkun itwal minn sitt sigħat.

(2) Il-waqfa ta' mistrieħ li għaliha haddiem għandu jkun intitolat, inkluż it-tul tagħha u l-pattijiet li fuqhom tinghata, għandha tkun skond id-disposizzjonijiet imniżżlin fi ftehim kollettivi jew f'xi ftehim iehor maqbul bejn il-prinċipali u l-impjegati.

(3) Bla hsara għad-disposizzjonijiet ta' xi ftehim kollettiv skond ir-regolament 3(4), il-waqfa ta' mistrieħ li hemm mahsub għaliha fis-subregolament (1) ta' dan ir-regolament għandha tkun għal perjodu mhux interrott ta' mhux inqas minn hmistax-il minuta, u l-haddiem għandu jkun intitolat li jgħaddiha barra mil-lant tax-xogħol, jekk ikollu lant bħal dak.

Perjodu ta' mistrieħ kull ġimgħa.

**6.** (1) Bla hsara għad-disposizzjonijiet tas-subregolament (2) u (3) ta' dan ir-regolament, kull haddiem għandu jkun intitolat, b'żjieda mal-perjodu ta' mistrieħ ta' kuljum imsemmi fir-regolament 4, għal perjodu minimu mhux interrott kull ġimgħa ta' 24 siegħa għal kull perjodu ta' sebat ijiem li tulhom il-haddiem jaħdem għall-prinċipal:

Iżda, jekk il-prinċipal iġib prova lid-Direttur li l-kondizzjonijiet tekniċi jew ta' organizzazzjoni tax-xogħol jitolbu hekk, allura l-perjodu minimu ta' mistrieħ ta' 24 siegħa għal kull perjodu ta' sebat ijiem għandu jkun applikat biex jirrisolvi l-kondizzjonijiet tekniċi jew ta' l-organizzazzjoni tax-xogħol:

Iżda wkoll jekk il-prinċipal jonqos milli jgħib prova lid-Direttur li l-kondizzjonijiet tekniċi jew ta' l-organizzazzjoni tax-xogħol hekk jitolbu, id-Direttur ikollu s-setgħa jobbliga lill-prinċipal li jagħti lill-haddiem perjodu ta' mistrieħ kull ġimgħa kif hemm provdut fl-ewwel paragrafu ta' dan is-subregolament.

(2) Minkejja d-disposizzjonijiet tas-subregolament (1) ta' dan ir-regolament, perjodu ta' mistrieħ kull ġimgħa jista' jkun kalkolat fuq perjodu ta' referenza ta' 14-il ġurnata jekk il-prinċipal jiddetermina hekk, u f' dawn il-każi haddiem għandu jkun intitolat għal jew–

(a) żewġ perjodi ta' mistrieħ mhux interrotti, kull wiehed minnhom ta' mhux inqas minn 24 siegħa, u kull wiehed preċedut minn perjodu ta' mistrieħ ta' kuljum, f' kull perjodu ta' 14-il ġurnata li tulhom il-haddiem jahdem għall-prinċipal; jew

(b) perjodu ta' mistrieħ wiehed mhux interrott ta' mhux inqas minn 48 siegħa, preċedut minn perjodu ta' mistrieħ ta' kuljum, f' kull perjodu tali ta' 14-il ġurnata li tulhom il-haddiem jahdem għall-prinċipal.

7. (1) Salv kif hemm ipprovdut mod ieħor f'dawn ir-regolamenti, il-hin ta' xogħol medju għal haddiem għal kull perjodu ta' sebat ijiem, inkluża s-sahra, ma għandux jaqbeż it-48 siegħa:

Hin ta' xogħol massimu medju kull ġimgħa.

Iżda:

(a) l-hin tax-xogħol medju kull ġimgħa għandu jkun kalkolat min-numru ta' sigħat totali mahdumin f' perjodu ta' referenza kif speċifikat fis-subregolament (3) ta' dan ir-regolament;

(b) l-perjodu annwali ta' *leave* bi hlas, mogħti skond ir-regolament 8 ta' dawn ir-regolamenti, il-perjodi ta' *leave* għall-mard kif speċifikat f' xi leġislazzjoni rilevanti mahruġa għat-termini ta' l-Att jew kif jista' jkun speċifikat fi ftehim kollettiv rilevanti u kull *leave* ieħor li haddiem hu intitolat għalih skond xi disposizzjonijiet leġislattivi rilevanti mahruġin skond l-Att, ma għandhomx ikunu inklużi fil-kalkolu tal-medju.

(2) Is-subregolament (1) ta' dan ir-regolament ma għandux japplika:

(i) sal-31 ta' Lulju, 2004 fis-sub-setturi tal-manifattura li ġejjin:

- ikel u xorb,
- tessuti,
- lbiesi u xedd tas-saqajn,
- apparat tat-trasport,
- makkinarju, taghmir u fornimenti elettrici u elettronici,
- ghamara;

(ii) sal-31 ta' Diċembru, 2004 fir-rigward ta' kull ftehim kollettiv li jkun fis-sehh fit-12 ta' Diċembru, 2001 fis-sub-setturi hawn qabel imsemmija meta ftehim ikollu klawsoli rilevanti ghal dan ir-regolament li jibqgħu validi wara Lulju 2004.

(3) Bla hsara ghal disposizzjonijiet rilevanti f'xi ftehim kollettiv skond ir-regolament 3(4) ta' dawn ir-regolamenti, il-perjodi ta' referenza li japplikaw fil-każ ta' haddiem huma -

(a) fil-każ tas-settur tal-manifattura u s-settur tat-turiżmu, inklużi stabbilimenti ta' vvjaġġar u forniment ta' ikel u xorb, perjodu ta' 52 ġimgha;

(b) meta ftehim kollettiv rilevanti jkun jipprovdi għall-applikazzjoni ta' dan ir-regolament f'konnessjoni ma' perjodi suċċessivi ta' 17-il ġimgha, kull perjodu bhal dak;

(ċ) f'kull każ iehor, kull perjodu ta' 17-il ġimgha fil-kors ta' l-impieg tal-haddiem.

(4) Meta haddiem ikun impjegat mal-prinċipal tiegħu ghal inqas minn 17-il ġimgha, il-perjodu ta' referenza applikabbli għandu jkun il-perjodu li jkun għadda minn meta beda jahdem għall-prinċipal.

(5) Għandu jkun id-dmir tal-prinċipal li jiżgura li l-limitu speċifikat fis-subregolament (1) ikun imhares fl-interess tas-sahħa u s-sigurtà tal-haddiema.

(6) Kull disposizzjoni f'kull leġislazzjoni oħra mahruġa taht dan l-Att li tirrelata l-paga minima ta' kull ġimgha ta' impjegat *full-time* ma' hin tax-xogħol kull ġimgha ta' aktar minn 48 siegħa, għandha, minn issa 'l quddiem, titqies li tirrelata din il-paga minima ta' kull ġimgha ma' hin tax-xogħol massimu medju kull ġimgha ta' 48 siegħa.

Leave kull sena.

**8.** Kull haddiem għandu jkun intitolat għal *leave* bi hlas kull sena li mill-inqas ikun ekwivalenti f' għadd ta' sigħat għal erba' ġimghat u erba' ġranet tax-xogħol imkejjeq fuq il-bażi ta' ġimgha ta' 40 siegħa xogħol, u fuq ġurnata ta' 8 sigħat xogħol u minn dan id-dritt ta' *leave* li

jinghata kull sena, perjodu minimu ekwivalenti ghal erba' ġimghat ma jistax jinbidel ma' *allowance* li tinghata minflok, minbarra meta r-relazzjoni ta' impjeg tkun itterminata, u kull ftehim kuntrarju ghal dan ghandu jkun null u invalidu:

Izda f' każijiet fejn il-hin medju ta' xoghol kull ġimgha, ikkalkolat fuq il-bażi ta' perjodu ta' referenza ta' 17-il ġimgha, hu inqas minn 40 siegħa fil-ġimgha jew ikun jaqbizhom, id-dritt ghal *leave* li jinghata kull sena mkejjel bis-sighat ghandu jkun aġġustat skond il-każ:

Izda wkoll il-hin medju ta' xoghol kull ġimgha ghandu jkun ikkalkolat fuq is-sighat normali ta' xoghol ta' l-impjegat u ma ghandux jinkludi s-sighat ta' sahra.

(2) Bl-eċċezzjoni tas-sighat tad-dritt ta' *leave* li jinghata kull sena li jistgħu jittiehdu bhala *leave* urġenti, il-*leave* ghandu jittiehed bhala granet tax-xoghol shaħ, bin-numru ekwivalenti ta' sighat jitnaqqas mid-dritt ta' *leave* li jinghata kull sena mkejjel bis-sighat, sakemm ma jkunx provdut mod iehor fi ftehim kollettiv jew ma jiġix stabbilit b'kunsens reċiproku:

Izda f' każijiet fejn l-ghadd ta' sighat li jifdal mid-dritt ta' *leave* li jinghata kull sena jkun inqas mill-ekwivalenti ta' ġurnata xoghol shiha, dak li jibqa' mid-dritt għall-*leave* ghandu jinghata f' darba wahda bhala parti minn ġurnata xoghol shiha.

(3) Minkejja d-disposizzjonijiet tas-subregolament (1) ta' dan ir-regolament, proporzjon mid-dritt tal-*leave* li ma taqbiżx il-50% tad-dritt ghal-*leave* li jinghata kull sena tista', bi ftehim reċiproku bejn il-prinċipal u l-impjegat, tinghadda darba biss għas-sena kalendarja li tmiss. Dan il-*leave* li jiġi mghoddi 'l quddiem mis-sena ta' qabel ghandu jittiehed l-ewwel, u ma jistax jerġa' jiġi mghoddi 'l quddiem mill-ġdid.

(4) Meta impjegat ikun ilu jahdem ghal mhux inqas minn 12-il xahar f'xi sena kalendarja, il-haddiem ghandu jkun intitolat għal dak il-*leave* li jinghata kull sena proporzjonatament għall-perjodu li jkun impjegat.

(5) Kull impjegat *full-time* ghandu jkun intitolat għall-festi nazzjonali u għall-btajjel pubbliċi kollha b'paga shiha.

(6) Bla hsara għal kull disposizzjoni rilevanti fi ftehim kollettiv rikonoxxut jew stabbilit b'kunsens reċiproku:

(a) fil-każ ta' haddiema li jahdmu bi skeda ta' kuljum regolari, meta festa nazzjonali jew btala pubblika taqa' f'gurnata ta' mistrieh tal-haddiem, il-haddiem ghandu jigi akkreditat b'sighat żejda ta' *leave* li jinghata kull sena ekwivalenti ghall-ghadd ta' sighat ta' gurnata tax-xoghol normali;

(b) minkejja l-paragrafu precedenti, fil-każ ta' haddiema bi skedi irregolari jew meta s-sighat ta' xoghol jinbidlu minn gurnata ghall-ohra, is-sighat ta' xoghol ekwivalenti ghal gurnata xoghol li ghandhom ikunu akkreditati lid-dritt ta' *leave* li jinghata kull sena ta' haddiema bhal dawk meta btala pubblika jew festa nazzjonali tahbat f' gurnata ta' mistrieh ghandhom jigu kalkolati fuq il-bazi ta' l-ghadd ta' sighat normali skedati biex jinhadmu f' perjodu ta' 17-il gimgha divizi bl-ghadd ta' granet tax-xoghol f'dak l-istess perjodu.

### Xoghol ta' Billejl u Xoghol bix-Xift

Tul ta' xoghol ta' billejl.

**9.** (1) Bla hsara ghad-disposizzjonijiet tas-subregolament (2) ta' dan ir-regolament, is-sighat normali ta' xoghol ta' haddiem ma ghandhomx jaqbzu medja ta' tmien sghat f' kull perjodu ta' 24 siegha:

Izda l-ghadd medju ta' sghat ta' xoghol kull lejl ghandu jkun ikkalkolat fuq l-ghadd totali ta' sghat mahdumin fil-perjodu ta' referenza kif speċifikat fis-subregolamenti (4) u (5) ta' dan ir-regolament:

Izda wkoll jekk il-perjodu ta' mistrieh minimu kull gimgha ta' 24 siegha mehtieg bir-regolament 6 jaqa' fl-ambitu tal-perjodu ta' referenza, dan ma ghandux ikun inkluz fil-kalkolu tal-medju.

(2) Il-principjal ghandu jizgura li ebda haddiem ta' billejl li xoghlu jinvolvi perikli speċjali jew sforz tqil fiziku jew mentali ma ghandu jahdem aktar minn tmien sghat f' kull perjodu ta' 24 siegha li tulhom jinhadem ix-xoghol ta' billejl.

(3) Ghall-finijiet tas-subregolament (2) ta' dan ir-regolament, xoghol li jinvolvi perikli speċjali jew sforz tqil fiziku jew mentali ghandu jkun rikonoxxut bhala tali permezz ta' :

(a) stima tar-riskju maghmula mill-principjal bis-sahha ta' l-artikolu 6 ta' l-Att dwar l-Awtorità ghas-Sahha u s-Sigurtà fuq il-Post tax-Xoghol; jew

Kap. 424.

(b) disposizzjonijiet adatti fil-ftehim kollettiv bis-sahha tar-regolament 3(4) ta' dawn ir-regolamenti li jispecificaw attivitajiet ta' xoghol partikolari waqt li jitqiesu l-effetti u l-perikli specifici tax-xoghol ta' billejl.

(4) Il-perjodi ta' referenza li japplikaw fil-każ ta' haddiem ta' billejl ghandhom ikunu definiti:

(a) fil-ftehim kollettiv, jew

(b) f' kull każ iehor minn kull perjodu ta' 17-il ġimgħa fil-kors ta' l-impieg.

(5) Meta haddiem ikun ilu impjegat mal-prinċipal tiegħu għal inqas minn 17-il ġimgħa, il-perjodu ta' referenza applikabbli għandu jkun il-perjodu li jkun għadda minn meta jkun beda jahdem għall-prinċipal.

**10.** (1) Qabel ma jagħti lil haddiem xogħol ta' billejl, u f'intervalli regolari wara, għandu jkun id-dmir ta' prinċipal li jieħu l-miżuri neċessarji biex jiżgura li l-haddiem involut issirli valutazzjoni adatta ta' saħtu biex tiddetermina l-istat tas-sahha tal-haddiem sabiex jitqies jekk ikunx fiżikament tajjeb għax-xogħol propost:

Valutazzjoni tas-sahha u trasferiment ta' haddiema ta' billejl għal xogħol mal-ġurnata.

Iżda prinċipal għandu jirrepeti l-valutazzjoni tas-sahha wara li jkun għadda perjodu ta' żmien raġonevoli mill-valutazzjoni preċedenti jew kull meta jkun hemm bidla fl-ambjent tax-xogħol jew fl-istat tas-sahha tal-haddiem.

(2) Ebda persuna ma għandha tiżvela valutazzjoni tas-sahha magħmula għall-finijiet ta' dan ir-regolament lil xi persuna ohra minbarra lill-haddiem li jkollha x'taqsam miegħu, sakemm—

(a) il-haddiem ma jkunx ta l-kunsens tiegħu bil-miktub għal dan il-kxiif ta' informazzjoni, jew

(b) il-kxiif ta' informazzjoni jkun ristrett għal dikjarazzjoni li l-valutazzjoni tkun turi li l-haddiem ikun f'saħħtu jew mhux f'saħħtu skond il-każ qabel ma jidhol għal xogħol mogħti lilu, jew biex ikompli bix-xogħol mogħti lilu.

(3) Meta -

(a) tabib ikun ta parir lil prinċipal li haddiem impjegat mill-prinċipal ikun qed ibati minn problemi ta' saħha li t-tabib iqis li

jkunu konnessi mal-fatt li l-haddiem ikun qed jagħmel xogħol ta' billejl, u

(b) jkun possibbli għall-prinċipal li jittrasferixxi lill-haddiem għal fuq xogħol –

(i) li l-haddiem ikun jaqbel miegħu, u

(ii) li jrid isir f'perjodi hekk li l-haddiem ma jibqax haddiem ta' billejl,

il-prinċipal għandu jittrasferixxi lill-haddiem skond dan.

(4) Il-prinċipal ma għandux jintaxxa haddiem jew jippermetti li haddiem ikun intaxxat jew li titnaqqaslu l-paga fir-rigward ta' xi haġa li tkun saret bis-saħħa ta' xi miżura mitluba minn dawn ir-regolamenti.

Notifika ta' użu regolari ta' haddiema ta' billejl.

**11.** Għandu jkun id-dmir ta' prinċipal li juża regolarment haddiema ta' billejl li jzomm *records* adegwati fuq kull haddiem li jagħmel xogħol ta' billejl biex juri li qed ikun hemm konformità xierqa mad-disposizzjonijiet ta' dawn ir-regolamenti u li jgħaddi lid-Direttur, kull meta jintalab jagħmel dan, kull informazzjoni relatata max-xogħol ta' billejl li tista' titqies neċessarja.

Sistema ta' xogħol.

A.L. 36 ta' l-2003.

**12.** Għandu jkun id-dmir tal-prinċipal li jiżgura li haddiem għandu jingħata waqfiet mix-xogħol adegwati, għas-sodisfazzjon tad-Direttur, meta valutazzjoni tar-riskju skond ir-Regolamenti ta' l-2003 dwar Disposizzjonijiet Ġenerali dwar is-Saħħa u s-Sigurtà fuq il-Post tax-Xogħol, jew xi leġislazzjoni oħra rilevanti dwar is-saħħa u sigurtà li tista' tkun fis-sehħ minn żmien għal żmien, u magħmula għas-sodisfazzjon ta' l-Awtorità dwar Saħħa u Sigurtà fuq il-Post tax-Xogħol, turi li s-sistema li biha l-prinċipal jorganizza x-xogħol hi tali li tqiegħed f' riskju s-saħħa u s-sigurtà ta' haddiem impjegat minnu, u, b' mod partikolari, għax ix-xogħol ikun monotonu jew ir-rata tax-xogħol tkun wahda determinata minn qabel.

### **Disposizzjonijiet Mixxellanji.**

Eċċezzjonijiet.

**13.** Regolamenti 4, 5, 6, 7 u 9 ma għandhomx japplikaw f'konnessjoni ma' haddiem meta, minhabba l-karatteristiċi speċifiċi ta' l-attività li l-haddiem ikun qed jagħmel, it-tul tal-hin tax-xogħol ma jkunx imkejjeż jew determinat minn qabel jew jista' jkun determinat mill-haddiem, skond il-każ, imma ma jkunx limitat għal–

(a) uffiċjali eżekuttivi maniġerjali jew persuni oħra b'setghat awtonomi li jiehdu deċiżjonijiet;

(b) haddiema qraba; jew

(ċ) haddiema li jippresjedu ċerimonji reliġjużi fi knejjes u komunitajiet reliġjużi.

**14.** Meta l-applikazzjoni ta' xi disposizzjonijiet ta' dawn ir-regolamenti hija eskluża mir-regolament 15 jew 16 ta' hawn aktar 'l isfel, jew hi modifikata jew eskluża bis-saħħa ta' ftehim kollettiv taht ir-regolament 17, u haddiem għandu jkun mitlub skond dan mill-prinċipal tiegħu biex jahdem tul perjodu li altrimenti jkun perjodu ta' mistrieh jew waqfa ta' mistrieh - Mistrieh b'kumpens.

(a) il-prinċipal għandu jkun obligat, minkejja din l-eżenzjoni, li jiżgura li kull haddiem involut jingħatalu dak il-perjodu kompensatorju ta' mistrieh jew waqfien mix-xogħol, skond il-każ, li jista' jitqies raġonevolment ekwivalenti għall-perjodu ta' mistrieh jew waqfien mix-xogħol imsemmi fir-regolament 4 jew 6 ta' dawn ir-regolamenti, u

(b) f'każi eċċezzjonali li fihom ma jkunx possibbli, għal raġunijiet oġġettivi, li jingħata tali perjodu ta' mistrieh, il-prinċipal għandu jagħti lill-haddiem tali harsien kif ikun xieraq u mehtieġ biex iħares is-saħħa u s-sigurtà tal-haddiem:

Iżda l-arranġament fir-rigward tal-kondizzjonijiet tax-xogħol li hemm provdut dwarhom ma jkunux jinkludu:

(i) l-ghoti ta' kumpens fi flus lill-haddiem; jew

(ii) il-provdiment ta' xi benefiċċju materjali iehor lill-haddiem minbarra l-provdiment ta' benefiċċju li jtejjeb il-kondizzjonijiet fiżiċi li l-haddiem jahdem tahtom jew il-kumditajiet u s-servizzi li l-haddiem jista' jgawdi waqt ix-xogħol.

**15.** Bla hsara għad-disposizzjonijiet tar-regolament 14, ir-regolamenti 4, 5, 6, u 9 ma għandhomx japplikaw— Kaži speċjali oħra.

(a) dwar attivitajiet fejn il-post tax-xogħol tal-haddiem huma tali li l-post tax-xogħol u l-post tar-residenza tiegħu huma mbegħdin minn xulxin, inkluż xogħol lil hinn mill-kosta, jew il-postijiet differenti tax-xogħol ma' l-istess prinċipal huma mbegħdin minn xulxin;

(b) dwar attivitajiet ta' sigurtà u sorveljanza li jitolbu preżenza permanenti biex jitharsu propjetà u persuni, kif jista' jkun il-każ ta' gwardjani u persuni li jiehdu hsieb is-sigurtà jew ditti ta' sigurtà;

(c) dwar attivitajiet li jinvolvu l-htieġa ta' servizz jew produzzjoni bla waqfien, kif jista' jkun il-każ f'konnessjoni ma' -

(i) servizzi relatati mal-lqugh, trattament jew kura pprovduta minn sptarijiet jew stabbilimenti simili, istituzzjonijiet residenzjali u habsijiet;

(ii) xogħol f' tarznari jew ajruporti;

(iii) stampa, radju, televiżjoni, produzzjoni ċinematografika, servizzi postali u ta' telekomunikazzjoni u servizzi ta' protezzjoni ċivili;

(iv) produzzjoni, trasmissjoni u distribuzzjoni ta' gass, ilma u elettriku, ġbir ta' skart mid-djar u impjanti ta' inċinerazzjoni;

(v) industrij li fihom, għal raġunijiet tekniċi, ix-xogħol ma jistax ikun interrott;

(vi) attivitajiet ta' riċerka u żvilupp;

(vii) agrikultura;

(viii) haddiema involuti fil-ġarr ta' passiġġieri fuq servizzi regolari ta' trasport urban;

(d) meta tkun prevista żjieda ta' attività, kif jista' jkun il-każ f'konnessjoni ma' -

- a. agrikultura;
- b. turiżmu; u
- ċ. servizzi postali;

(e) fil-każ ta' persuni li jahdmu fit-trasport ferrovjarju:

(i) li l-attivitajiet tagħhom ikunu intermittenti;

(ii) li jgħaddu l-hin tax-xogħol tagħhom abbord ferroviji; jew

(iii) li l-attivitajiet tagħhom ikunu marbutin ma' l-orarji tat-trasport u biex jiżguraw il-kontinwità u r-regolarità tat-traffiku;

(f) meta l-attivitajiet tal-haddiem jintlaqtu minn -

(i) xi okkorrenza dovuta għal ċirkostanzi mhux tas-soltu u mhux prevedibbli, lil hinn mill-kontroll tal-prinċipal tal-haddiem;

(ii) ġrajjet eċċezzjonali li l-konsegwenzi tagħhom ma setgħux ikunu evitati minkejja l-eżerċizzju ta' kull attenzjoni mogħtija mill-prinċipal; jew

(iii) inċident jew riskju imminenti ta' inċident.

**16.** (1) Bla hsara għad-disposizzjonijiet tar-regolament 14 hawn qabel – Haddiema bix-xift.

(a) ir-regolament 4 ma għandux japplika f' konnessjoni ma' haddiem bix-xift meta jibdel ix-xift u ma jistax jiehu l-perjodu ta' mistrieh ta' kuljum bejn it-tmiem ta' xift u l-bidu tax-xift ta' wara;

(b) ir-regolament 6 ma għandux japplika f' konnessjoni ma' haddiem bix-xift meta l-haddiem jibdel ix-xift u ma jistax jiehu l-perjodu ta' mistrieh ta' kull ġimgħa bejn it-tmiem ta' xift u l-bidu tax-xift li jmiss; u

(ċ) ir-regolament 4 ma għandux japplika għal haddiema impenjati f'attivitajiet li jinvolvu perjodi ta' xogħol maqsumin tul il-ġurnata, kif jista' jkun il-każ ta' haddiema tat-tindif.

**17.** (1) Fir-rigward ta' tobbha qed jitharrġu, regolament 7(1) ma għandux japplika sa dik id-data li fiha l-Ministru jista', b'avviż fil-Gazzetta, jordna: Tobba qed jitharrġu.

Iżda mill-1 ta' Awissu, 2004 għandu jidhol fis-seħh perjodu transitorju li tulu n-numru ta' sigħat ta' xogħol kull ġimgħa għal tobbha qed jitharrġu ma għandux jaqbez medja ta' 58 siegħa fl-ewwel tliet snin, medja ta' 56 fis-sentejn ta' wara u medja ta' 52 għal kull perjodu li jiġi wara.

(2) Il-prinċipal għandu jikkonsulta lir-rappreżentanti ta' l-impjegati fi żmien opportun bl-iskop li jasal fi ftehim, kull fejn hu possibbli, fuq l-arranġamenti li japplikaw għall-perjodu ta' transizzjoni.

Fil-parametri mnizzlin fil-paragrafu preċedenti, dan il-ftehim jista' jkopri:

(i) l-ghadd medju ta' sigħat ta' xogħol fil-ġimgha tul il-perjodu transitorju; u

(ii) il-miżuri li għandhom jittiehdu biex is-sigħat ta' xogħol kull ġimgha jitnaqqsu għal medja ta' 48 siegħa sa tmiem il-perjodu transitorju;

(3) Regolament 7 (3) ma għandux japplika għal tobbja qed jiġiharrġu sakemm il-perjodu ta' referenza ma jkunx jaqbez:

(a) it-12-il xahar tul l-ewwel tliet snin li jibdew fl-1 ta' Awissu, 2004, u

(b) is-sitt xhur fis-sentejn ta' wara.

Meta jkun hemm ftehim kollettiv.

**18.** (1) Bla hsara għad-disposizzjonijiet tar-regolament 14, ftehim kollettiv jista' :

(a) jimmodifika jew jeskludi l-applikazzjoni tar-regolamenti 4, 5, 6 u 9 fir-rigward ta' haddiema jew grupp ta' haddiema;

(b) jimmodifika l-applikazzjoni tar-regolament 7 (3) bis-sostituzzjoni ta' kull referenza għal 17-il ġimgha b'perjodu differenti li ma jaqbiżx it-52 ġimgha, meta hemm raġunijiet oġġettivi jew tekniċi suffiċjenti jew raġunijiet li għandhom x'jaqsmu ma' l-organizzazzjoni tal-hin tax-xogħol.

Haddiema mobbli u xogħol lil hinn mill-kosta.

**19.** (1) Ir-regolamenti 4, 5, 6 u 9 ma għandhomx japplikaw għal haddiema mobbli:

Iżda għandhom isiru l-arranġamenti meħtieġa biex ikun żgurat li dawn il-haddiema mobbli jkollhom mistrieh adegwat hlief f'ċirkustanzi mnizzlin fir-regolament 15 (f).

(2) F'każijiet meta jista' jkun hemm raġunijiet oġġettivi jew tekniċi jew raġunijiet li għandhom x'jaqsmu ma' l-organizzazzjoni tax-xogħol, il-perjodu ta' referenza msemmi fir-regolament 7 (3) jista' jittawwal għal tmax-il xahar fir-rigward ta' haddiema li normalment jaqsmu xogħol lil hinn mill-kosta.

Disposizzjonijiet finali.

**20.** (1) Id-disposizzjonijiet tar-regolament 7 ma għandhomx japplikaw fir-rigward ta' haddiem li jkun ftiehem bil-miktub mal-

prinċipal tiegħu li ma ghandhomx japplikaw, b'dan iżda li l-prinċipal jiehu l-mizuri neċessarji biex jiżgura li:

(a) ebda haddiem ma ghandu jkun mitlub jahdem għal aktar minn 48 siegħa tul perjodu ta' sebat ijiem, ikkalkolat bhala medju għall-perjodu ta' referenza msemmi fil-paragrafu (b) tar-regolament 14, sakemm il-prinċipal ma jkunx l-ewwel għab il-kunsens tal-haddiem biex jagħmel dan ix-xogħol;

(b) ebda haddiem ma ghandu jkun soġġett għal xi detriment mill-prinċipal tiegħu għaliex ma jkunx irid jagħti l-kunsens tiegħu biex jagħmel dan ix-xogħol;

(ċ) il-prinċipal iżomm *records* aġġornati tal-haddiema kollha li jagħmlu dan ix-xogħol, li għandhom jinkludu l-għadd speċifiku ta' sigħat li għandhom jinhadmu mill-impjegat tul perjodu ta' referenza partikolari;

(d) ir-*records* jitqiegħdu għad-disposizzjoni tad-Direttur li jista', għal raġunijiet konnessi mas-sigurtà u, jew is-saħħa tal-haddiema, jipprojbixxi jew jirrestringi l-possibilità li jinqabez il-massimu ta' sigħat ta' xogħol kull ġimgha;

(e) il-prinċipal jipprovdi lid-Direttur, wara talba tiegħu, b'informazzjoni fuq każijiet li fihom haddiema jkunu taw il-kunsens tagħhom biex jahdmu għal aktar minn 48 siegħa f' perjodu ta' sebat ijiem, ikkalkolat bhala medju għall-perjodu ta' referenza msemmi fil-paragrafu (b) tar-regolament 7(3).

(2) Kull ftehim bil-miktub magħmul bis-saħħa ta' dak li jingħad fil-paragrafu (a) tas-subregolament (1) ta' dan ir-regolament għandu jkun jista' jintemm mill-haddiem billi jagħti lill-prinċipal avviz bil-miktub mhux inqas minn sebat ijiem qabel jew xi perijodu iehor itwal li ma jeċċedix tliet xhur, kif stipulat bi ftehim bil-miktub.

(3) Għandu jkun id-dmir tal-prinċipal li:

(a) jzomm *records* adegwati biex juri li l-limiti speċifikati fir-regolamenti 7 u 9, u l-htiġiet bis-saħħa tar-regolament 10, qed ikunu sodisfatti fil-każ ta' kull haddiem li dawn ir-regolamenti japplikaw għalih, u

(b) jzomm tali *records* għal mill-inqas sentejn mid-data meta jkunu saru.

(4) Meta prinċipal jonqos milli jżomm *records* taht xi disposizzjoni rilevanti ta' dawn ir-regolamenti fir-rigward ta' xi impjegat, id-dmir tal-prova, fi proċeduri quddiem il-Qrati, li d-disposizzjoni msemmija kienet sodisfatta fir-rigward ta' l-impjegat ghandu jaqa' fuq il-prinċipal.

### Tkeċċija ingusta u reati oħra

Tkeċċija ingusta.

**21.** (1) Impjegat li jitkeċċa ghandu jitqies għall-finijiet ta' dawn ir-regolamenti bhala li jkun tkeċċa ingustament jekk ir-raġuni, jew, jekk ikun hemm aktar minn waħda, ir-raġuni prinċipali tat-tkeċċija hija li l-impjegat -

(a) ikun irrifjuta, jew ippropona li jirrifjuta, li jikkonforma ma' hteġa li l-prinċipal impona, jew ippropona li jimponi, b' kontravenzjoni ta' dawn ir-regolamenti;

(b) irrifjuta, jew ippropona li jirrifjuta, li jirrinunzja għal dritt mogħti lilu b'dawn ir-regolamenti.

(2) F'kazijiet imsemmija fis-subregolament (1) ta' dan ir-regolament, haddiem jista' jressaq ilment lit-Tribunal Industrijali mwaqqaf skond it-Taqsima III ta' Titolu II ta' l-Att, li l-prinċipal -

(a) ikun irrifjuta li jippermettilu jeżerċita xi dritt li ghandu taht dawn ir-regolamenti; jew

(b) naqas milli jhallsu l-ammont shih jew xi parti minn xi ammont dovut lilu taht ir-regolament 8.

Reati.

**22.** Kull min jikser jew jonqos milli jikkonforma ruhu mad-disposizzjonijiet ta' xi wiehed minn dawn ir-regolamenti jkun hati ta' reat kontra l-Att skond l-artikolu 45 ta' l-Att u jista' jehel multa ta' mhux inqas minn mitejn lira (Lm200).

Ihassar  
disposizzjonijiet  
inqas favorevoli.

**23.** Dawn ir-regolamenti jiehdu post disposizzjonijiet rilevanti inqas favorevoli f'kull regolamenti, ordnijiet jew leġislazzjoni sussidjarja oħra magħmulin taht jew miżmumin fis-seħh taht l-Att, u kull disposizzjoni bhal dik rilevanti hija b'dan imhassra.

**L.N. 247 of 2003**

**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT, 2002  
(ACT NO. XXII OF 2002)**

**Organisation of Working Time Regulations, 2003**

IN exercise of the powers conferred by article 6 of the Employment and Industrial Relations Act 2002, the Deputy Prime Minister and Minister for Social Policy, has made the following regulations.

**1.** (1) The title of these regulations is the Organisation of Working Time Regulations, 2003. Title and commencement.

(2) These regulations shall come into force on such date as the Minister responsible for employment and industrial relations may, by order or orders, direct and different dates may be fixed in respect of different provisions or purposes of these regulations or different sectors of employment.

**2.** (1) In these regulations, unless the context otherwise requires: Interpretation.

“the Act” means the Employment and Industrial Relations Act, 2002;

“adequate rest” means such rest periods, the duration of which is expressed in units of time and which are sufficiently long and continuous to ensure that, as a result of fatigue or other irregular working patterns, workers do not cause injury to themselves, to fellow workers or to others;

“civil protection services” includes the police, fire brigades and ambulance services, the security and intelligence services, customs and immigration officers, the prison service, any voluntary rescue services, port and airport safety officers and air traffic controllers;

“Director” means the Director responsible for employment and industrial relations;

“employer” includes a partnership, company, association or other body of persons, whether vested with legal personality or not, and in relation to a worker means the person by whom the worker is, or, where the employment has ceased, was employed;

“family worker” shall mean a relative of the employer to the second degree, ascending or descending as well as persons under the legal custody of the employer;

“Minister” means the Minister responsible for employment and industrial relations;

“mobile worker” means any worker employed as a member of travelling or flying personnel by an undertaking which operates transport services for passengers or goods by road, air or inland waterway;

“night time” means the period between 10 p.m. of any one day and 6 a.m. of the next day;

“night worker” means a worker who:

- (a) works at least three hours of his daily working time as a normal course during night time; or
- (b) works more than 50 per cent of his annual working time, or such lower proportion as may be specified in appropriate provisions of a relevant collective agreement during night time:

Provided that for the purposes of paragraph (a) of this definition, the term “normal course” means those instances where the worker works such hours on the majority of days during which he works;

“offshore work” means work performed mainly on or from offshore installations, including drilling rigs, directly or indirectly in connection with the exploration, extraction or exploitation of mineral resources, including hydrocarbons, and diving in connection with such activities, whether performed from an offshore installation or from a vessel;

“rest period” means any period which is not working time and does not include leave to which a worker is entitled under these regulations;

“shift work” means any method of organising work in shifts whereby workers succeed each other at the same work stations according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks;

“shift worker” means any worker whose work schedule is part of shift work;

“working time” means any period during which the worker is available for service to the employer and is carrying out his activity or duties, and includes any relevant training and any other additional period which is to be treated as working time for the purpose of these regulations under any relevant agreement and “work” shall be construed accordingly.

(2) Subject to the provisions of sub-regulation (1) of this regulation, terms and expressions used in these regulations shall, unless the context otherwise requires, have the meaning assigned to them in the Act.

**3.** (1) These regulations shall be construed as a National Standard Order and lay down the minimum requirements for the organisation of working time. Purpose, scope and applicability of regulations.

(2) These regulations shall apply:

(a) to minimum periods of daily rest, weekly rest and annual leave, and to breaks; and

(b) to maximum weekly working time; and

(c) to certain aspects of night work, shift work and patterns of work; and

(d) unless otherwise provided hereunder in these regulations or in any applicable law, these regulations shall apply to all sectors of activity, both public and private.

(3) These regulations shall not apply:

(a) where other legislation laying down more specific provisions relating to the organisation of working time for certain occupations or occupational activities are in force;

(b) to seafarers on board every seagoing vessel, whether publicly or privately owned.

(4) These regulations shall be applicable without prejudice to the introduction and implementation of provisions in collective agreements or any other agreement entered into between employers and employees, which are more favourable to the protection of the safety and health of workers.

(5) These regulations shall be read and construed together with the provisions of any applicable health and safety legislation and in the case of conflict, these regulations shall apply.

### **Minimum Rest Periods and Maximum Working Time**

Daily rest.

**4.** Every worker shall be entitled to a minimum daily rest period of 11 consecutive hours per 24-hour period during which the worker performs work for his employer.

Rest breaks.

**5. (1)** Every worker shall be entitled to a rest break where the working day is longer than six hours.

(2) The rest break to which a worker shall be entitled, including its duration and the terms on which it is granted, shall be in accordance with any provisions laid down in collective agreements or any other agreement entered into between employers and employees.

(3) Subject to the provisions of any applicable collective agreement in accordance with regulation 3(4), the rest break provided for in sub-regulation (1) of this regulation shall be for an uninterrupted period of not less than fifteen minutes, and the worker shall be entitled to spend it away from his workstation, if he has one.

Weekly rest period.

**6. (1)** Subject to the provisions of sub-regulations (2) and (3) of this regulation, every worker shall be entitled to a minimum uninterrupted weekly rest period of 24 hours, in addition to the daily rest period of 11 hours referred to in regulation 4, for each seven-day period during which the worker works for the employer:

Provided that, if the employer proves to the Director that technical or work organisation conditions so require, then a minimum rest period of 24 hours for each seven day period shall be applied so as to resolve the technical or work organisation conditions:

Provided further that if the employer fails to prove to the Director that technical or work organisation conditions so require, the Director shall have the power to oblige the employer to allow the worker a weekly rest period as provided in the first paragraph of this sub-regulation.

(2) Notwithstanding the provisions of sub-regulation (1) of this regulation, the weekly rest period may be calculated over a 14-day reference period if the employer so determines, and in such cases, a worker shall be entitled to either -

(a) two uninterrupted rest periods each of not less than 24 hours, each preceded by a daily rest period, in each 14-day period during which the worker works for the employer; or

(b) one uninterrupted rest period of not less than 48 hours, preceded by a daily rest period, in each such 14-day period during which the worker works for the employer.

7. (1) Saving as otherwise provided in these regulations, the average working time for each seven-day period of a worker, including overtime, shall not exceed 48 hours: Maximum average weekly working time.

Provided that:

(a) the average weekly working time shall be calculated from the total number of hours worked in a reference period as specified in sub-regulation (3) of this regulation;

(b) the periods of paid annual leave, granted in accordance with regulation 8 of these regulations, the periods of sick leave as specified in any relevant legislation issued in terms of the Act or as may be specified in a relevant collective agreement and any other leave to which a worker shall be entitled pursuant to any relevant legislative provision issued in terms of the Act shall not be included in the calculation of the average.

(2) Sub-regulation (1) of this regulation shall not apply:

(i) until 31st July, 2004 in the following manufacturing sub-sectors:

- food and beverages,
- textiles,
- clothing and footwear,
- transport equipment,

- electrical and electronic machinery, appliances and supplies,
- furniture;

(ii) until 31st December, 2004 in respect of collective agreements existing on 12th December, 2001 in the above mentioned sub-sectors where these agreements contain clauses relevant to this regulation with validity beyond July 2004.

(3) Subject to any relevant provisions in any applicable collective agreement in accordance with regulation 3(4) of these regulations, the reference periods which apply in the case of a worker are -

(a) in the case of the manufacturing sector and the tourism sector, including travel and catering establishments, a period of 52 weeks;

(b) where a relevant collective agreement provides for the application of this regulation in relation to successive periods of 17 weeks, each such period;

(c) in any other case, any period of 17 weeks in the course of the worker's employment.

(4) Where a worker has been in employment for his employer for less than 17 weeks, the applicable reference period shall be the period that has elapsed since starting work for the employer.

(5) It shall be the duty of the employer to ensure that the limit specified in sub-regulation (1) shall be complied with, in the interests of the health and safety of the workers.

(6) Any provisions in any other legislation issued under the Act which relate the minimum weekly wage of a whole-time employee to a weekly working time of more than 48 hours, shall, henceforth, be considered to relate such minimum weekly wage to a maximum average weekly working time of 48 hours.

Annual leave.

**8.** (1) Every worker shall be entitled to paid annual leave of at least the equivalent in hours of four weeks and four working days calculated on the basis of a 40-hour working week, and an 8-hour working day and out of this paid annual leave entitlement, a minimum period equivalent to four weeks may not be replaced by an allowance in lieu, except where the employment relationship is terminated, and any agreement to the contrary shall be null and void:

Provided that in cases where the average weekly working time, calculated on the basis of a reference period of 17 weeks, is below or exceeds 40 hours per week, the annual leave entitlement in hours shall be adjusted accordingly:

Provided further that the average weekly working time shall be calculated on the normal hours of work of the employee and shall not include overtime hours.

(2) With the exception of the hours of annual leave entitlement which may be availed of as urgent leave, leave shall be availed of as whole working days, with the equivalent number of hours being deducted from the annual leave entitlement calculated in hours, unless otherwise provided for in a collective agreement or established by mutual consent:

Provided that in cases when the residual hours of annual leave entitlement is less than the equivalent of a whole working day, such residual leave entitlement shall be granted on one occasion as part of a whole working day.

(3) Notwithstanding the provisions of sub-regulation (1) of this regulation, a proportion of the leave entitlement not exceeding 50% of the annual leave entitlement, may, by mutual agreement between employer and employee, be carried over once to the next calendar year. Such vacation leave carried forward from the previous year will be utilised first, and may not be carried forward again.

(4) When an employee is in employment for less than 12 months in any calendar year, the worker shall be entitled to such annual leave as is in proportion to the period in employment.

(5) Every whole-time employee shall be entitled to the national holidays and to all public holidays with full pay.

(6) Subject to any relevant provision in a recognised collective agreement or established by mutual consent:

(a) in the case of workers on a regular daily schedule, when a national holiday or public holiday falls on a worker's day of rest, the worker shall be credited with extra hours of annual leave equivalent to the number of hours of a normal working day;

(b) notwithstanding the preceding paragraph, in the case of workers on irregular schedules or where the hours of work vary

from day to day, the hours of work equivalent to a working day which are to be credited to the annual leave entitlement of such workers when a public holiday or a national holiday falls on a day of rest shall be calculated on the basis of the number of normal hours scheduled to be worked in a 17 week period, divided by the number of working days in that same period.

### **Night Work and Shift Work**

Length of night work.

**9.** (1) Subject to the provisions of sub-paragraph (2) of this regulation a night worker's normal hours of work shall not exceed an average of eight hours in any 24-hour period:

Provided that the average number of hours worked each night shall be calculated on the total number of hours worked in a reference period as specified in sub-regulations (4) and (5) of this regulation:

Provided further that if the minimum weekly rest period of 24 hours required by regulation 6 falls within the reference period it shall not be included in the calculation of the average.

(2) The employer shall ensure that no night worker whose work involves special hazards or heavy physical or mental strain shall work more than eight hours in any period of 24 hours during which night work is performed.

(3) For the purposes of sub-regulation (2) of this regulation, work involving special hazards or heavy physical or mental strain shall be recognised as such by means of :

Cap.424.

(a) a risk assessment carried out by the employer pursuant to article 6 of the Occupational Health and Safety Authority Act; or

(b) appropriate provisions in collective agreements pursuant to regulation 3(4) of these regulations specifying particular work activities, taking account of the specific effects and hazards of night work.

(4) The reference periods which apply in the case of a night worker shall be defined:

(a) by collective agreements, or

(b) in any other case by any period of 17 weeks in the course of employment.

(5) Where a worker has been in employment with his employer for less than 17 weeks, the applicable reference period shall be the period that has elapsed since starting work for the employer.

**10.** (1) Prior to assigning a worker to carry out night work and at regular intervals thereafter, it shall be the duty of an employer to take the necessary measures to ensure that the worker concerned undergoes a suitable health assessment to determine the worker's health status in order to ascertain fitness for the proposed work:

Health assessment and transfer of night workers to day work.

Provided that an employer shall repeat the health assessment after a reasonable length of time has elapsed since a previous assessment or whenever there has been a change in the working environment or in the health status of the worker.

(2) No person shall disclose a health assessment made for the purposes of this regulation to any person other than the worker to whom it relates, unless -

(a) the worker has given his consent in writing to the disclosure, or

(b) the disclosure is confined to a statement that the assessment shows the worker to be fit or unfit as the case may be prior to undertaking an assignment, or to continue to undertake an assignment.

(3) Where -

(a) a registered medical practitioner has advised an employer that a worker employed by the employer is suffering from health problems which the practitioner considers to be connected with the fact that the worker performs night work, and

(b) it is possible for the employer to transfer the worker to work -

(i) to which the worker is suited, and

(ii) which is to be undertaken during periods such that the worker will cease to be a night worker,

the employer shall transfer the worker accordingly.

(4) The employer shall not levy or permit to be levied on any worker any charge or deduction in wages in respect of anything done pursuant to any measure required by these regulations.

Notification of regular use of night workers.

**11.** It shall be the duty of an employer who regularly uses night workers, to keep adequate records on any workers carrying night work to show that there is suitable compliance with the provisions of these regulations and to furnish the Director, whenever so requested, with any information related to night work which may be considered necessary.

Pattern of work.

L.N. 36 of 2003.

**12.** It shall be the duty of the employer to ensure that a worker shall be given adequate rest breaks, to the satisfaction of the Director, where a risk assessment in terms of the General Provisions for Health and Safety at Workplaces Regulations, or any other relevant health and safety legislation which may be in force from time to time, and carried out to the satisfaction of the Occupational Health and Safety Authority, shows that the pattern according to which an employer organizes work is such as to put the health and safety of a worker employed by him at risk, and in particular, because the work is monotonous or the work-rate is predetermined.

### Miscellaneous Provisions

Exceptions.

**13.** Regulations 4, 5, 6, 7 and 9, shall not apply in relation to a worker where, on account of the specific characteristics of the activity in which the worker is engaged, the duration of the working time is not measured or predetermined or can be determined by the worker, as may be the case for, but not limited to –

- (a) managing executives or other persons with autonomous decision-taking powers;
- (b) family workers; or
- (c) workers officiating at religious ceremonies in churches and religious communities.

Compensatory rest.

**14.** Where the application of any provision of these regulations is excluded by regulation 15 or 16 hereunder, or is modified or excluded by means of a collective agreement under regulation 17, and a worker shall be accordingly required by his employer to work during a period which would otherwise be a rest period or rest break -

(a) the employer shall, notwithstanding such exemption, be obliged to ensure that any worker concerned is allowed such compensatory rest period or rest break, as the case may be, that can be reasonably considered as equivalent to the rest period or break referred to in regulation 4 or 6 of these regulations, and

(b) in exceptional cases in which it shall not be possible, for objective reasons, to grant such a period of rest, the employer shall afford the worker such protection as may be appropriate in order to safeguard the worker's health and safety:

Provided that the arrangement with regards to the conditions of work provided for in this regulation shall not include:

(i) the granting of monetary compensation to the worker; or

(ii) the provision of any other material benefit to the worker other than the provision of such a benefit as will improve the physical conditions under which the worker works or the amenities or services available to the worker while working.

**15.** Subject to the provisions of regulation 14, regulations 4, 5, Other special cases. 6, and 9 shall not apply -

(a) in relation to activities where the worker's place of work and place of residence are distant from one another, including offshore work, or his different places of work with the same employer are distant from one another;

(b) in relation to security and surveillance activities requiring a permanent presence in order to protect property and persons, as may be the case for security guards and caretakers or security firms;

(c) in relation to activities involving the need for continuity of service or production, as may be the case in relation to -

(i) services relating to the reception, treatment or care provided by hospitals or similar establishments, residential institutions and prisons;

(ii) work at docks or airports;

(iii) press, radio, television, cinematographic production, postal and telecommunications services and civil protection services;

- (iv) gas, water and electricity production, transmission and distribution, household refuse collection and incineration plants;
  - (v) industries in which work cannot be interrupted on technical grounds;
  - (vi) research and development activities;
  - (vii) agriculture;
  - (viii) workers concerned with the carriage of passengers on regular urban transport services;
- (d) where there is a foreseeable surge of activity, as may be the case in relation to -
- (i) agriculture;
  - (ii) tourism; and
  - (iii) postal services;
- (e) in the case of persons working in railway transport:
- (i) whose activities are intermittent;
  - (ii) who spend their working time on board trains; or
  - (iii) whose activities are linked to transport time-tables and to ensuring the continuity and regularity of traffic;
- (f) where the worker's activities are affected by –
- (i) an occurrence due to unusual and unforeseeable circumstances, beyond the control of the worker's employer;
  - (ii) exceptional events, the consequences of which could not have been avoided despite the exercise of all due care by the employer; or
  - (iii) an accident or the imminent risk of an accident.

**16.** Subject to the provisions of regulation 14 above -

(a) regulation 4 shall not apply in relation to a shift worker when he changes shift and cannot take a daily rest period between the end of one shift and the start of the next one;

(b) regulation 6 shall not apply in relation to a shift worker when the worker changes shift and cannot take a weekly rest period between the end of one shift and the start of the next one; and

(c) regulation 4 shall not apply to workers engaged in activities involving periods of work split up over the day, as may be the case for cleaning staff.

**17.** (1) With respect to doctors in training, regulation 7 (1) shall not apply until such date as the Minister may by notice in the Gazette prescribe: Doctors in training.

Provided that as from the 1st August, 2004 a transitional period shall take effect in which the number of weekly working hours for doctors in training shall not exceed an average of 58 during the first three years, an average of 56 for the following two years and an average of 52 for any remaining period.

(2) The employer shall consult the representatives of the employees in good time with a view to reaching an agreement, wherever possible, on the arrangements applying to the transitional period. Within the limits set out in the preceding sub-regulation, such an agreement may cover:

(i) the average number of weekly hours of work during the transitional period; and

(ii) the measures to be adopted to reduce weekly working hours to an average of 48 by the end of the transitional period.

(3) Regulation 7 (3) shall not apply to doctors in training provided that the reference period does not exceed:

(a) 12 months, during the first three years commencing on the 1st August, 2004 and

(b) six months for the following 2 years.

Collective agreements.

**18.** Subject to the provisions of regulation 14, a collective agreement may:

(a) modify or exclude the application of regulations 4, 5, 6 and 9 in relation to workers or a group of workers;

(b) modify the application of regulation 7(3) by the substitution for each reference to 17 weeks with a different period not exceeding 52 weeks, when there are sufficient objective or technical reasons or reasons concerning the organisation of working time.

Mobile workers and offshore work.

**19.** (1) Regulations 4, 5, 6, and 9 shall not apply to mobile workers:

Provided that necessary arrangements are taken to ensure that such mobile workers shall have adequate rest except in circumstances laid out in regulation 15 (f).

(2) In cases where there may be objective or technical reasons or reasons concerning the organisation of work, the reference period referred to in regulation 7 (3) may be extended to twelve months in respect of workers who mainly perform offshore work.

Final provisions.

**20.** (1) The provisions of regulation 7 shall not apply in relation to a worker who has agreed with his employer in writing that it should not apply, provided that the employer takes the necessary measures to ensure that:

(a) no worker shall be required to work more than 48 hours over a seven-day period, calculated as an average for the reference period referred to in paragraph (b) of regulation 14, unless the employer has first obtained the worker's agreement to perform such work;

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

(c) the employer keeps up-to-date records of all workers who carry out such work, which shall include the specific number of hours to be worked by the employee in a particular reference period;

(d) the records are placed at the disposal of the Director, who may, for reasons connected with the safety and, or health of

workers, prohibit or restrict the possibility of exceeding the maximum weekly working hours;

(e) the employer provides the Director at his request with information on cases in which agreement has been given by workers to perform work exceeding 48 hours over a period of seven days, calculated as an average for the reference period referred to in paragraph (b) of regulation 7(3).

(2) Any written agreement pursuant to what is stated in paragraph (a) of sub-regulation (1) of this regulation shall be terminable by the worker by giving no less than seven days' written notice to his employer or any other longer period, not exceeding three months, that is stipulated in the written agreement.

(3) It shall be the duty of the employer to:

(a) keep adequate records to show that the limits specified in regulations 7 and 9, and the requirements pursuant to regulation 10 are being complied with in the case of any workers to whom these regulations apply, and

(b) to retain such records for at least two years from the date on which they are made.

(4) When an employer fails to keep records under any relevant provision in these regulations in relation to an employee, the onus of proving, in proceedings before a Court, that the said provision was complied with in relation to the employee shall lie on the employer.

### **Unfair dismissal and other offences**

**21.** (1) An employee who is dismissed shall be regarded for the purposes of these regulations as having been unfairly dismissed if the reason, or, if more than one, the principal reason, for the dismissal is that the employee - Unfair dismissal.

(a) refused, or proposed to refuse, to comply with a requirement which the employer imposed, or proposed to impose, in contravention of these regulations;

(b) refused, or proposed to refuse, to forgo a right conferred on him by these regulations.

(2) In cases referred to in sub-regulation (1) of this regulation, a worker may present a complaint to the Industrial Tribunal set up in terms of Part III of Title II of the Act, that his employer –

(a) has refused to permit him to exercise any right he has under these regulations; or

(b) has failed to pay him the whole or any part of any amount due to him under regulation 8.

Offences.

**22.** Any person who contravenes or fails to comply with the provisions of any of these regulations shall be guilty of an offence against the Act in terms of article 45 of the Act and shall be liable to a minimum fine (*multa*) of two hundred liri (Lm200).

Repeals less favourable provisions.

**23.** These regulations supersede any less favourable relevant provisions in any regulations, orders or other subsidiary legislation made under or kept in force under the Act, and any such relevant provisions are hereby being revoked.