

Working time opt-out agreement template

Issue this as a standalone document, not a clause in the contract. The opt-out has to be an individual written agreement, and burying it in a contract pack everybody signs unread is what turns a valid agreement into a disputed one. It disapplies only the 48-hour average from regulation 4 - rest breaks, night work limits and paid holiday are untouched.

The template

Replace each [bracketed placeholder]. Copy it straight from this page, or download the PDF above.

Agreement to disaply the maximum average working week

Working Time Regulations 1998, regulation 5. Between [Company name] of [address] ("the Company") and [worker name] ("you").

1. What you are agreeing to

Regulation 4(1) of the Working Time Regulations 1998 provides that your working time, including overtime, should not exceed an average of 48 hours for each seven days over a reference period of 17 weeks. By signing this agreement you agree that this limit does not apply to you.

2. What this agreement does not affect

This agreement disapplies the 48-hour average only. It does not affect your entitlement to daily rest, weekly rest, in-work rest breaks, the protections that apply to night work, or your right to paid annual leave. All of those continue to apply in full, and the Company remains responsible for your health and safety at work.

3. It is voluntary

Signing this agreement is entirely your choice. You are not required to sign it in order to obtain or keep your job, and you will not be treated less favourably, subjected to any detriment, or denied any opportunity because you have declined to sign it or have later cancelled it. If you would prefer not to sign, tell [role] and nothing further is needed.

4. How long it lasts

[This agreement applies indefinitely until you cancel it under clause 5. / This agreement applies from [date] to [date].]

5. Cancelling it

You may cancel this agreement at any time by giving the Company [7 days'] notice in writing to [role or address]. The notice period will never be less than seven days and, in accordance with regulation 5, will never exceed three months. Once the notice expires the 48-hour average applies to you again, and the Company will adjust your hours accordingly.

6. Records

The Company will keep an up-to-date record of workers who have signed an agreement of this kind, as regulation 4 requires, and will record the date this agreement is signed and the date any cancellation takes effect. You may ask for a copy of your own record at any time.

Signatures

Worker:..... Print name:..... Date:..... For the
Company:..... Role:..... Date:..... Copy given to
the worker on:..... Added to the opt-out register on:.....

Using it

- Do not put it in the contract. Issue it separately, and let people take it away and think about it. An opt-out signed as one page of a 20-page pack is much easier to challenge later.
- Do not issue it to anyone under 18. Young workers are capped at 8 hours a day and 40 a week under regulation 5A with no opt-out available, so there is nothing for them to sign.
- Maintain the register. Clause 6 is a real duty, not decoration. Remove people when they cancel or leave, so the list answers "who is opted out today" rather than "who has ever signed".
- Keep watching the hours anyway. The opt-out removes the average, not the health and safety duty. Someone routinely working 60 hours is a risk you still own.

This is a starting point for a general UK employer and is not legal advice. If you operate in a sector with its own working time rules - road transport, aviation, sea fishing or the offshore sector - those rules sit on top of this and are worth specific advice.

A free template from CoDash - codash.co.uk/templates. Edit it to match how your company actually works, and take advice on anything unusual.