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New regulation of daily rest in HÖK/AB



Background to changes in regulations

- Criticism from the European Commission 2021
- The criticism was passed on to the parties
- Risks: European Court of Justice, Swedish model
- Agreements ready in December 2022 (HÖK/AB) and May 2023 (appendices)
- Effective October 1, 2023 and February 1, 2024

- Interpretative Communication on Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organisation of working time
[Publications Office \(europa.eu\)](https://european-council.europa.eu/media/e063024d-1230-4007-9111-d8271d4110db/attachment_data/data/communication_01_en.pdf)

The criticism from the European Commission

- The agreement does not guarantee 11 consecutive hours of leave per 24-hour period
- The agreement allows for 9 hours of daily rest in the scheduled activities
- The agreement also provides for the possibility to go for 9 consecutive hours of daily rest
- There is no compensatory rest or “afforded appropriate protection” under the Directive
- The agreement allows work up to 30 hours without any daily rest
- It is difficult for the individual worker to understand their rights based on how the agreement is designed

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New main principle

Organisation of working time

- Work and daily rest shall alternate during each period of 24 hours so that work and rest regularly follow each other.
- The worker is entitled to at least 11 consecutive hours of leave in each period of 24 hours (daily rest).
- A number of rules to strengthen the workers rights to information
 - For example: The schedule must indicate the organisation of regular working hours and rest periods and the time when the 24-hour period for daily calculation begins.

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Derogations

Unforeseen event

- An worker's daily rest period may be temporarily shortened in the event of an unforeseen event that the employer has not been able to foresee, influence or plan for.
- If the daily rest period is reduced the worker is entitled to compensatory rest corresponding to the reduced daily rest. The rest period shall be in conjunction with the subsequent daily rest period and shall be continuous.
- If, for objective reasons, this is not possible, the compensatory rest shall be taken as soon as possible, but no later than within 14 calendar days (eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017SC0204)
- If the next rest already corresponds to the time to be compensated, the compensation is considered completed.

Unforeseen event on standby of site (on-call)

- In case of stand-by of site (in Sweden beredskapstid), compensatory rest for active work that breaks the daily rest period must be continuous and be placed as soon as possible, but no later than within 14 calendar days.
- In the event this happening for several consecutive days, compensatory rest shall be placed in connection with the subsequent daily rest period after the end of the standby period.
- The reason? Standby of site is rest within the meaning of the directive, but it is not completely disconnected from work, which means that compensatory rest cannot be placed during stand-by of site.
- Interpretative Communication on Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organisation of working time, page 60

Derogations in the case of planned organisation of working time

- Special reasons in jobs responsible for life, health and safety
- The assessment shall be made on the basis of a balance of interests between the employee's right to daily rest and the business's need to secure staffing
- If the daily rest period is restricted, the employee is entitled to compensatory rest corresponding to the reduced daily rest. The rest period shall be in conjunction with the subsequent daily rest period and shall be continuous.
- Three possible derogations
 1. Shortened daily rest period to a minimum of 9 hours
 2. Shifts up to 20 hours when combined work and stand by on site
 3. Shifts up to 24 hours when combined work and stand by on site (special exemption)

- Shifts up to 24 hours when combined work and stand by on site

To use the derogation up to 24 hours the employer must apply for an exemption from a special committee.

Fire departments may in certain cases need exemptions in view of society's responsibility to ensure the protection of life and health, property and the environment in the event of accidents or imminent danger of accidents.

Exemptions can be granted provided that the employer has tested all possibilities to staff the operation in accordance with the other derogations and has made the assessment that an exemption is necessary to meet the needs of the operation.

Prohibition of salary deductions

If the employer decides to arrange compensatory rest during regular working hours, salary deductions will not be made



Local collective agreements

It is no longer possible to sign local collective agreements with derogations from the rules regarding daily rest



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