

# 1 in 4 are working without a break

## Is this a change in working culture and what are your legal rights?

**By Philip Landau**  
 Employment Law Solicitor

**It was reported today by the Chartered Society of Physiotherapy that 1 in 4 workers are not exercising their rights to take rest breaks during the day. The Society said that long hours could pose "serious risks" to health and may lead to huge costs for employers.**

Your basic legal rights to time off are set out in The Working Time Regulations, which applies to all workers, whether full or part-time and the majority of agency workers. You are entitled to:

- a limit of an average 48 hours a week on the hours you can be required to work, although you can elect to work longer
- 5.6 weeks' paid leave a year
- a 20 minute rest break if your working day is longer than 6 hours
- 1 day off each week
- 11 consecutive hours' rest in any 24-hour period
- a limit on the normal working hours of night workers to an average 8 hours in any 24-hour period, and an entitlement for night workers to receive regular health assessments.

The actual amount of break you receive is usually set out in your contract of employment and many employers will allow breaks that go beyond the minimum regulations. For example, one hour for lunch is usual. The breaks must be in one block and cannot be taken off one end of the working day - it must be somewhere in the middle. Subject to this, your employer can dictate what time the actual break is taken.

The rights to breaks do apply differently in some situations, such as where you constantly work in different places making it difficult to work to a set pattern or you are working in an industry with busy peak periods, like agriculture, retail or tourism. In these cases, instead of getting normal breaks, you are entitled to 'compensatory rest' where the rest taken later, ideally during the same or following working day.

If you work in air, road or sea transport you are what is known as a 'mobile worker' for the purposes of the Working Time Regulations, which means you are excluded from the usual rest break entitlements and instead are entitled to 'adequate rest'. This is a regular rest period long enough to make sure you do not cause injury to yourself or anyone around you due to tiredness.

If your employer does not allow you to take your breaks against your wishes, then you can lodge a formal grievance and if necessary make a claim to the Employment Tribunal. If you belong to a union, you could speak to them first.

Of course, far from employers not allowing their workers the requisite rest breaks, the survey from the Chartered Society of Physiotherapy shows that many workers are choosing themselves not to take breaks, either due to being overloaded with work or there being too few staff to cover their workload. This is not clever. There have been many studies to show that an overworked and stressed worker will ultimately prove unproductive and could have adverse implications for their health.

It could also lead to negligent mistakes being made which could cost your employer dearly. I have seen many such cases, especially in demanding employment sectors such as banking.

So, what should you do if you find yourself in this position? I would first have an informal meeting with your line manager and explain the position. You do not have to play the "breach of statutory requirement" card, as I would hope that good sense will prevail. You should explain to your line manager that with your being overworked, you are concerned that mistakes will be made and you should point out that you are unable to take reasonable breaks. If this falls on deaf ears, then you may have to consider the more formal approach of lodging a grievance, which your employer is then bound to address.

If you are a line manager yourself and can see that your staff are not taking breaks, then the onus should be on you to ascertain why this is happening and to address the position. You are responsible for their health and safety after all.

In the present economic climate where most who have jobs are doing their utmost to keep them, the recent survey may just prove that there is a changing culture of working through your breaks - even though the right to breaks is a statutory and contractual entitlement. If it is the case, this would be a shame. The statutory provisions for rest breaks are there for a reason.

## **1 in 4 are working without a break**

### Is this a change in working culture and what are your legal rights?

---

Being overworked and over stressed can lead to long term sickness and a prolonged absence from work. Unfortunately by that stage, it can be difficult to return to the role you were doing. Common sense should prevail by both employer and employee to ensure there is a balanced work life position that does not adversely impact against the well being of the diligent employee.

**For further information please contact Philip by telephone on 020 7357 9494 or email: Philip Landau [pl@lzwlaw.co.uk](mailto:pl@lzwlaw.co.uk)**