



Dear Colleague

**CHANGES TO THE AGENDA FOR CHANGE
HANDBOOK: REDUCTION OF THE WORKING WEEK
TO 37 HOURS AND UPDATES TO SECTION 15 AND
SECTION 27**

1. This circular highlights a series of changes which have been made to the Scottish Agenda for Change Handbook to reflect the fact, firstly, that the standard working week for Agenda for Change staff reduced to 37 hours from 1 April 2024. Also, to adopt changes to Section 15 covering new parent support leave and Section 27 covering working time regulations for night workers. Both of these latter changes to the Handbook have already been agreed by the UK NHS Staff Council.

2. Annex A details the specific revisions, and an updated version of the Scottish Handbook will be placed on the [Management Steering Group website](#).

Action

3. NHS Boards and Special Health Boards should note these changes to Agenda for Change terms and conditions.

4. With regard to the change to Section 27, these revisions have been made following legal advice provided to the UK NHS Staff Council. Boards should discuss these changes through their Area Partnership Forum in terms of the implementation arrangements required at a local level. A list of Frequently Asked Questions in relation to this revision to night-time working provisions is included at Annex B.

5. Any significant issues not covered in the FAQs and that are felt to require a national "Once for Scotland" discussion should be submitted to colin.cowie@gov.scot, so that they can be reviewed and discussed by the Secretariat of the Scottish Terms and Conditions Committee.

1 July 2024

Addressees

For action

Chief Executives,
Directors of Finance,
Directors of Human Resources:
NHS Boards and Special Health
Boards, NHS National Services
Scotland (Common Services
Agency) and Healthcare
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For information

Members, Scottish Partnership
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Members, Scottish Terms and
Conditions Committee
Members, Scottish Workforce and
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Enquiries to:

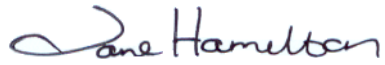
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6. This circular is available online at:
www.publications.scot.nhs.uk.

Yours sincerely

A handwritten signature in blue ink that reads "Jane Hamilton". The signature is written in a cursive style with a large initial 'J'.

JANE HAMILTON

Deputy Director, Health Workforce
Pay, Practice and Partnership Division



**NATIONAL HEALTH SERVICE
APPROVAL OF REMUNERATION AND CONDITIONS OF SERVICE**

In accordance with regulations 2 and 3 of the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 (S.I. 1991/537) the remuneration and conditions of service set out in the attached Scottish Government Health Workforce Directorate circular of 1 July 2024 – PCS(AFC)2024/4 – in respect of changes to the Agenda for Change Handbook are hereby approved for the purposes of the said Regulations.

JANE HAMILTON
Deputy Director
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Pay, Practice and Partnership Division
Scottish Government
St Andrew's House
EDINBURGH
EH1 3DG
1 July 2024

CHANGES TO THE AGENDA FOR CHANGE HANDBOOK: REDUCTION OF THE WORKING WEEK TO 37 HOURS AND UPDATES TO SECTION 15 AND SECTION 27

Section 2: Maintaining round the clock services

Part time staff and other staff working non-standard hours

(Current section with amendment)

- 2.12 Part time staff working less than 37½ hours a week will be eligible for unsocial hours payments.

(Revised section)

- 2.12 Part time staff working less than 37 hours a week will be eligible for unsocial hours payments.

Section 3: Overtime payments

(Current section with amendment)

- 3.3 Part-time employees will receive payments for the additional hours at plain time rates until their hours exceed standard hours of 37½ hours a week.

(Revised section)

- 3.3 Part-time employees will receive payments for the additional hours at plain time rates until their hours exceed standard hours of 37 hours a week.

Section 10: Hours of the working week

(Current section with amendment)

- 10.1 The standard hours of all full-time NHS staff covered by this pay system will be 37½ hours, excluding meal breaks. Working time will be calculated exclusive of meal breaks, except where individuals are required to work during meal breaks, in which case such time should be counted as working time.
- 10.2 The standard hours may be worked over any reference period, e.g. ~~150 hours~~ over four weeks or annualised hours, with due regard for compliance with employment legislation, such as the Working Time Regulations.

(Revised section)

- 10.1 The standard hours of all full-time NHS staff covered by this pay system will be 37 hours, excluding meal breaks. Working time will be calculated exclusive of meal breaks, except where individuals are required to work during meal breaks, in which case such time should be counted as working time.
- 10.2 The standard hours may be worked over any reference period, e.g. over four weeks or annualised hours, with due regard for compliance with employment legislation, such as the Working Time Regulations.

Section 13: Annual leave and general public holidays

(Current section with amendment)

- 13.5 Where staff work standard shifts, other than 7.4½ hours excluding meal breaks, annual leave and general public holiday entitlements should be calculated on an hourly basis, to prevent staff on these shifts receiving greater or less leave than colleagues on standard shifts.

(Revised section)

- 13.5 Where staff work standard shifts, other than 7.4 hours excluding meal breaks, annual leave and general public holiday entitlements should be calculated on an hourly basis, to prevent staff on these shifts receiving greater or less leave than colleagues on standard shifts.

Section 15: Leave and pay for new parents

New parent support leave and pay (paternity leave)

(Current section with amendment)

- 15.112 All eligible employees are entitled to two weeks of new parent support leave which as a minimum can be split into two one-week blocks and which can be taken at any time during the first year ~~around the time~~ of the birth or the placement of the child for adoption.

(Revised section)

- 15.112 All eligible employees are entitled to two weeks of new parent support leave which as a minimum can be split into two one-week blocks and can be taken at any time during the first year of the birth or the placement of the child for adoption.

Section 27: Working time regulations

(Current section with amendment)

- 27.20 "Night-time" is a period of at least seven hours which includes the period from midnight to 5am. A night worker is someone who is classed as working for at least three hours of their daily working time during "night-time" ~~hours~~ as a "normal course". Employers should ensure that the "normal hours" of their night workers do not exceed an average of eight hours per 24 hour period over a rolling 17-week reference period. Where the night worker's job involves special hazards or heavy physical or mental strain, no averaging of hours is permitted and the night worker must not work more than eight actual hours in each 24 hour period.
- 27.21 "Normal hours" are those which are regularly worked and/or fixed by contract of employment (not hours actually worked). The calculation is therefore not affected by absence from work, as a worker's normal hours of work would remain the same, regardless of the "actual" hours worked. Time worked as regular or obligatory or guaranteed overtime ~~is not normal work unless an employee's contract fixes a minimum number of hours~~ does form part of "normal hours".

(Revised section)

- 27.20 “Night-time” is a period of at least seven hours which includes the period from midnight to 5am. A night worker is someone who is classed as working for at least three hours of their daily working time during “night-time” hours as a “normal course”. Employers should ensure that the “normal hours” of their night workers do not exceed an average of eight hours per 24 hour period over a rolling 17 week reference period. Where the night worker’s job involves special hazards or heavy physical or mental strain, no averaging of hours is permitted and the night worker must not work more than eight actual hours in each 24 hour period.
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(Current section with amendment)

- 27.23 Employers should ensure that night workers, whose work does involve special hazards or heavy physical or mental strain, do not actually work for more than eight hours in any 24 hour period, during which the night worker performs night work. Where the night worker’s job involves special hazards or heavy physical or mental strain no averaging of hours is permitted and the night worker must not work more than eight actual hours in each 24 hour period.

(Revised section)

- 27.23 Employers should ensure that night workers, whose work does involve special hazards or heavy physical or mental strain, do not actually work for more than eight hours in any 24 hour period, during which the night worker performs night work. Where the night worker’s job involves special hazards or heavy physical or mental strain no averaging of hours is permitted and the night worker must not work more than eight actual hours in each 24 hour period.

AMENDMENT TO SECTION 27 OF THE AGENDA FOR CHANGE HANDBOOK FREQUENTLY ASKED QUESTIONS

Q1: Will the changes to section 27 of the Terms and conditions of Service handbook change how we calculate night workers average hours?

A: Yes. Employers will now need to ensure regularly worked overtime is included when calculating a night workers average hours of night work. The calculations should be based on [regulation 6 \(5\) of the working time regulations for night workers](#) and based on a six day working week, or 12 days over a 2 week period, regardless of how many actual days form the night workers' working week

Q2: Is all overtime included in the calculation of night workers average hours?

A: The [government guidance](#) states regular overtime is included in the average, but not occasional, unless otherwise agreed in partnership locally.

Q3: Will this change the amount of hours employees can work at night?

A: There are no changes to the average of eight hours over a 17 week period, however, if the calculation, when including overtime, exceeds eight hours for each 24 hours over a 17-week reference period, then this may affect the amount of hours the employee can work at night.

Q4: Will the changes impact unsocial hours payments?

A: No, these changes do not impact unsocial hours' payments staff receive as shown in Section 2 of the Terms and Conditions of Service handbook.

Q5: Will this require any changes to rota management?

A: Employers should continue to factor in Working time regulations including those for night workers and hours worked as overtime when undertaking rostering.

Q6: Are bank and agency hours included in the working time calculations?

Q6: Where an employer manages their own internal bank, these should be included in the working time calculations.

Where employers use external bank and Agency arrangements both employers and individual workers are collectively responsible for ensuring local compliance with Working Time Regulations.

Q7: How should employers identify those who deal with special hazards or heavy physical or mental strain?

A: Employers will need to undertake a risk assessment in line with local policies to identify special hazards and work involving mental or physical strain. Further information can be found [here](#).

Q8: Will this require any changes to night worker health assessments?

A: No, Employers will still need to carry out regular health assessments in relation to night workers.

Scenarios

Jamie works 37 hours a week on a substantive contract. Jamie's shift patterns means they work some of those shifts during nighttime hours and regularly works overtime.

When rostering, the overtime needs to be considered in rota planning for Jamie's shifts and incorporated in the calculation of average hours for night work.

Robin works 37 hours on a substantive contract and regularly works overtime at night on the Trust operated bank. This often means they exceed an average of eight hours per 24 hour period over a 17 week reference period.

Robin and their employer are collectively responsible for ensuring local compliance with Working Time Regulations and this will need to be considered when choosing to work additional shifts via bank in a safe, sustainable and compliant way.