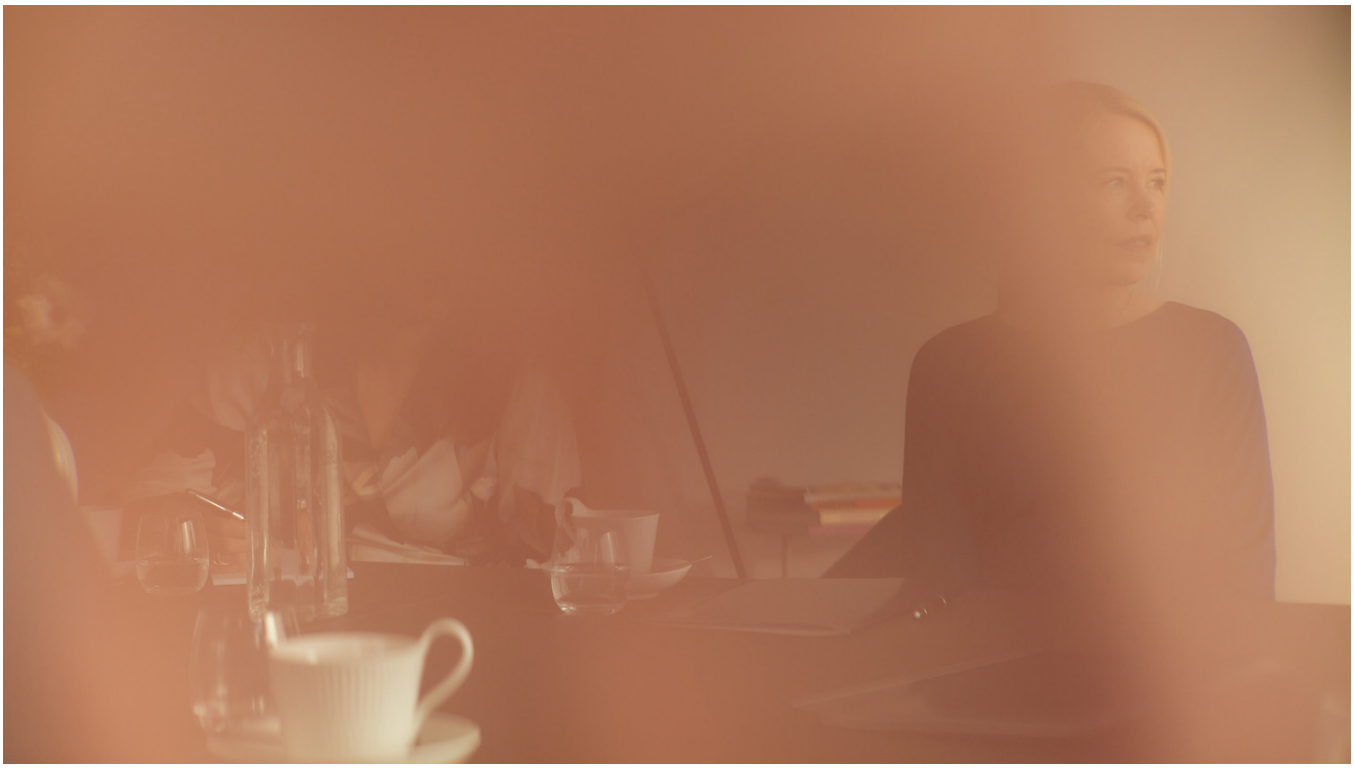


Brief on the Rules Regarding Working Time Registration

With the adoption of the amendment to the Working Time Act, which comes into effect on 1 July 2024, almost all employees will now have to register their daily working hours.

The rules are based on the European Court of Justice's interpretation of the EU's Working Time Directive, as the directive does not explicitly mention the requirement to register working hours. The purpose of the rules is to ensure effective enforcement of the rules on daily and weekly rest periods and maximum weekly working hours.

All employers must introduce an objective, reliable, and accessible system for registering working hours that makes it possible to measure the daily working hours for each employee. The law does not specify how time registration should be done. It is up to each workplace to choose the method.

Employees must be able to access their own information in the system. Employers must retain the information for five years.

See further information about the rules in the FAQ below.

FAQ

Who does the rules apply to?

As a rule, all employees will be subject to the requirement for time registration. An employee is a person *"who receives remuneration for personal work in a service relationship."* This is the common definition in Danish law, which also follows from e.g. the Holiday Act.

Who is exempt from the requirement to register working hours?

There is a narrow exception from the obligation to register working hours for so-called *"self-organizers."*

Self-organizers can be exempt from the rules on daily and weekly rest periods and maximum weekly working hours, and therefore also from the registration obligation.

An employee can be considered a self-organizer if "the length of working hours due to the specific characteristics of the work performed is not measured or predetermined, or if the employee can determine it themselves, provided they can make independent decisions or have managerial functions."

The exception has a narrow scope. For example, it is not sufficient to be exempt from the registration obligation if the employee has significant freedom in work scheduling but does not determine the extent of their working hours. It will always depend on a case-by-case assessment whether an employee is a self-organizer.

If an employee is a self-organizer and can be exempt from the obligation to register working hours, it must be stated in the employment contract or an addendum to the contract that the employee is not subject to the rules on daily rest periods, weekly rest periods, and maximum weekly working hours.

Ultimately, it is the employer's responsibility to ensure that the assessment of whether an employee is a self-scheduler and is exempt from the obligation to register working hours is correct.

What are the requirements for the system?

The system must be objective, reliable, and accessible. This means that the working time registrations must reflect the employee's actual working hours.

It is also a requirement that employees must be able to access their own information in the registration system.

The employer is also required to retain the registered information for five years after the end of the period that forms the basis for calculating the employee's weekly working hours. This applies even to employees who have left the company.

There are no other formal requirements for the system.

What should employees register?

If working hours are predetermined, such as according to a duty schedule/roster or other, it is sufficient for the employee to only register the part of the working hours that deviates from the agreed or predetermined working hours. Registration is therefore only required if the employee works more or less than the agreed working hours.

It is only the sum of the daily working hours that needs to be registered. This means that the exact time of work does not need to be registered. Therefore, there is no obligation to register exact start and end times.

Registration does not need to occur at specific times or for a specific period. The system must only ensure that it is possible to measure daily working hours.

Are employees required to use the system?

The obligation to introduce the system lies solely with the employer. The law does not contain any provisions that force employees to use the system.

The employer must, by virtue of their managerial right, ensure that employees are aware of and obligated to use the system.

Failure to comply with the obligation to register working hours can have employment law consequences.

The specific implementation and enforcement depend on the individual company, and it can be beneficial to include in a policy on time registration how the individual company addresses this.

Are there any sanctions if the employer does not introduce a system?

The law does not contain provisions that allow for sanctioning an employer for failing to introduce a system for registering working hours.

However, inadequate or insufficient registration of working hours can have negative evidentiary consequences for the employer.

In the absence of other evidence, the employee's information about working hours will generally be used as the basis in any case concerning the violation of employee rights under the Working Time Act.

Moreover, it may be in violation of other legislation, such as the Employment Certificate Act, if sufficient information about the obligation to register working hours is not provided or if a self-organizer is not



actually a self-organizer.