

Instructions for registering hours and overtime for UiB employees

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Part I. Registering hours

Section 10-7 of the Working Environment Act requires that an account be kept of the hours worked by each employee. The account shall be accessible to the Labour Inspection Authority and the employees' elected representatives. The requirement to register the hours worked must be adapted to the various work schedules at UiB.

1 Employees with regular hours

This group comprises employees working regular daytime hours or who have a fixed system of staggered hours and an averaging of the hours, provided the timing of their hours is predictable.

Employees with regular hours shall not keep accounts of their normal hours. However, they must register any deviations from their regular hours, and an account of deviations must be made available to their supervisor on request, or be submitted to the supervisor regularly (for instance monthly).

2 Employees with variable hours

Employees with variable hours pursuant to the Special agreement on flexible hours in the state, or individual agreements about flexible hours pursuant to section 10-2(3) of the Working Environment Act, are not considered to have a sufficiently predictable timing of their hours to meet the statutory requirement to an account of work hours.

Employees with flexible hours must therefore register their hours every day on a special form prepared by the Division of Human Resources. The account must be available to a supervisor on request or be submitted to a supervisor regularly (for example monthly).

3 Employees exempted from chapter 10 of the Working Environment Act on working hours

Employees in senior or particularly independent posts pursuant to section 10-12(1) and 10-12(2) of the Working Environment Act are exempt from most of the provisions in Chapter 10 of the Working Environment Act on working hours. The exemption also applies to section 10-7 of the Working Environment Act that requires an account of the hours worked to be prepared.

The assessment of who has a senior or particularly independent post must be based on the degree to which the individual manages their own work in terms of its organisation and execution. The assessment is based on the typical characteristics of the different position categories and any individual deviations.

3.1 Employees in senior posts

As detailed in the Working Environment Act, a senior post is a position with clear supervisory functions and an especially extensive authority to make independent work decisions. The assessment is based on the actual position and function. In making the assessment, it will also be significant whether the individual actually follows regular working hours.

At UiB, the exemption for senior posts will normally include positions in the Rectorate, the University Director, Deans, Faculty Directors, Heads of Department and similar positions, as well as Departmental Directors in the administration. Positions such as Heads of Sections, supervisors in the administration, Head of Office, and similar positions will not normally be considered senior posts pursuant to the Working Environment Act.

Employees in senior posts are not subject to the requirement to keep an account of their hours.

3.2 Employees in particularly independent posts

The Working Environment Act's "particularly independent posts" are characterised by those holding these posts being "independent" in terms of how and when they organise and execute their tasks. The employee can decide how to prioritise among their tasks and decide when and how to perform their work.

Research entails significant academic independence, in the form of the freedom to choose questions, methods, the publication of research results, etc. Furthermore, the employee manages the academic preparation of their own teaching. If the employee manages the bulk of their tasks, then this indicates that the employee is particularly independent.

If fixed hours, such as teaching, supervision at fixed hours, administration or other managed tasks comprise the bulk of the FTE, this indicates that the employee is not particularly independent.

3.2.1 Posts that are normally particularly independent

The general principle is that employees in combined academic positions at UiB are to spend equal time on research and teaching. The basic characteristics of the position require that dissemination and administration comprise a limited share of the tasks, and usually no more than 10 per cent of working hours. Employees can make their own decisions about the content and system of research, teaching and dissemination in accordance with the provisions of the Act relating to Universities and University Colleges regarding academic freedom and responsibility.

Based on the terms used in the Working Environment Act and the entity's organisation of the positions, the following UiB positions shall generally be considered particularly independent:

Professor Position code 1013 and 1404

Associate Professor Position code 1011

Assistant Professor Position code 1010

This also applies to teaching positions that have formal qualifications as the main objective and that include a limited share of required duties:

Postdoctoral Fellow Position code 1352

Doctoral Research Fellow Position code 1017 and 1378

Specialist Fellow Position code 1476

Employees in these positions normally have a clear and obvious independence in terms of how and when their work tasks are organised and executed. Unless the employer confirms in writing that a specific employee is not to be included, employees in the above-mentioned positions are legally considered particularly independent.

Employees in particularly independent posts are not subject to the requirement to keep accounts of their hours.

3.2.2 Employees in positions that must be individually assessed in relation to the "particularly independent post" concept

Employees in the following position groups will have varying types of tasks and work may be organised in different ways:

Associate Professor Position code 1198

Assistant Professor Position code 1009

Dental Instructor Position code 1015 and 1353

Dental Specialist Position code 1016

Research Assistant Position code 1018, 1019 and 1020

Researcher Position code 1108, 1109, 1110 and 1183 (temporary in externally funded research projects)

Whether individual employees in these positions fall under the legal definition of "particularly independent" must be assessed by a supervisor based on the specific individual circumstances.

Individual assessments must be based on the typical characteristics of the category of the position in question. The individual element will relate to variations in the actual work for each employee, as compared to the typical criteria for the position category.

If the conclusion is that the employee is not considered particularly independent, the employee will be covered by the ordinary provisions in the Working Environment Act about working hours, as supplemented by the provisions of the Basic Agreement. This includes the requirement in section 10-7 of the Working Environment Act that "an account shall be kept of the hours worked by each employee." If the employee can vary the timing of their hours (flexible hours) themselves, the employee must keep an updated account of the hours worked per day. The account must be available to a supervisor on request or be submitted regularly to a supervisor (for example monthly).

3.2.3 Other legal effects of being in a senior or particularly independent post

Employees in senior and particularly independent posts have the same legal status as employees in other positions with regard to the employer's management prerogatives and the employer's right to manage, allocate and control the work. The content of the employment contract is also the same in that the employees are required to work 37.5 hours a week. The positions are also subject to framework in the Basic Agreement regarding working hours, in part because working hours shall as far as possible be between 7 a.m. and 5 p.m. from Monday to Friday. However, this must be understood as referencing the working hours governed by someone other than the employee, such as the timing of classes set by the employer. Otherwise, the starting point is that employees in particularly independent posts themselves decide when to work the hours they regulate themselves. The employee is also required to comply with the times set for teaching, project participation, meetings or other activities in which the timing is governed by the employer. In general, the employee is required to be present at their ordinary place of work unless there are academic reasons for working elsewhere.

Part II. Registration of overtime

The overtime framework is stipulated in section 10-6 of the Working Environment Act and section 13 of the Basic Agreement.

Section 13(1) of the Basic Agreement requires that "overtime work must be imposed and controllable and must be limited in accordance with the requirements in the Working Environment Act."

Section 10-6(1) of the Working Environment Act includes a caveat that "work in excess of agreed working hours must not take place except in cases when there is an exceptional and time-limited need for it."

Regardless of the organisation of an employee's hours, the general conditions are that:

- overtime can only be imposed in extraordinary circumstances. In other words, it cannot be used to cover a permanent need for labour power.
- overtime must be explicitly imposed by a supervisor, who must also be able to control and confirm that the overtime work has been completed.

1 Overtime for employees subject to chapter 10 of the Working Environment Act

For employees subject to chapter 10 of the Working Environment Act, the limits of daily, weekly and yearly overtime work are stipulated in section 10-6 of the Act. Overtime work shall not exceed 10 hours in a seven-day period, 25 hours in four consecutive weeks, or 200 hours a year.

The Act assumes a 40-hour week, but state employees have a 37.5-hour work week pursuant to collective agreements. This means that the weekly overtime limits can be extended by 2.5 hours. However, this does not mean that employees are automatically able to work an extra 130 hours overtime a year on top of the 200-hour limit ("saving" the extra quota). The expanded quota only applies week by week, i.e. to the difference between 40 hours and 37.5 hours. The annual number of "extra hours" will thus be determined based on the actual weekly overtime for each employee.

Total work hours (regular hours and overtime) cannot exceed 13 hours in any 24-hour period.

1.1 Employees with regular hours

Each employee must register overtime imposed by the employer on an overtime form. Overtime must also be registered as a deviations from the regular hours, and the account of deviations must be made available to a supervisor on request, or be submitted to a supervisor regularly (e.g. monthly).

1.2 Employees with variable hours

If the employer requires an employee who is subject to the Special agreement on flexible hours in the state to work beyond ordinary working hours, this must be compensated by overtime pay pursuant to section 13(2) and 13(3) of the Basic Agreement. The employee cannot be required to work flexible hours outside of ordinary working hours.

Each employee must register imposed overtime on an overtime form and in the form for registering flexible hours. Imposed overtime that according to the agreement is to be compensated by time off and additional hours in the flexible hours calculations must be kept separate. The accounts must be available to a supervisor on request or be submitted to a supervisor regularly (e.g. monthly).

2 Overtime for employees who are exempt from chapter Working Environment Act

Employees in senior or particularly independent posts are generally not entitled to compensation for overtime, in accordance with section 13(4) of the Basic Agreement.

However, overtime compensation can nevertheless be paid when employees follow those whom they manage, enter a shift schedule, or have overtime imposed by a senior supervisor who can control the performance of the work. In the latter case, overtime compensation can be paid for up to 300 hours each calendar year.

In its comments to section 13(4) of the Basic Agreement, the Ministry of Education and Research has assumed that the employees in such cases "must be located in such a manner that they have supervisors who can impose and control their overtime work. If these prerequisites are not met, overtime compensation cannot be paid ... The immediate supervisor must confirm that the overtime work has been imposed. Overtime must be documented by registration of the hours worked."

The provision in section 13(4) of the Basic Agreement does not require any special registration of regular hours in order to pay compensation for overtime work. The requirement is only that the employee has a supervisor who can issue orders and control performance. In other words, it is the actual overtime work (when and for how long) that must be registered.

Overtime shall be documented by a supervisor approving an overtime form in which the overtime hours are listed by times, and thereby confirming that the overtime has been imposed and performed.