

## **Instructions to ban on overtime and shift swaps: private social services sector**

Please note! These frequently asked questions apply to the private social services sector. If you work in the public sector, check the [frequently asked questions that apply to you](#).

During a ban on overtime, employees only work regular working hours. During a ban on shift swaps, everyone complies with the confirmed shift roster.

### **Why the ban on overtime and shift swaps?**

The measures are meant to speed up the collective agreement negotiations that have ended. The collective agreement of the private social services sector expired at the end of April. Since then, the sector has been undergoing a period without agreement. The negotiations started in mid-February. So far, the employer party's proposals and JHL's goals have been quite far apart.

### **Which agreement sectors does the ban on overtime and shift swaps apply to?**

The ban that has now been put into place applies to the private social services sector's collective agreement (abbreviated as "YSOS TES" in Finnish).

### **Who is obligated to take part in the ban on overtime and shift swaps?**

The ban is a legal industrial action measure. It applies to all JHL members who work within the private social services sector's collective agreement (YSOS TES). The ban on overtime and shift swaps applies to all work done in the private social services sector.

### **What does a ban on overtime and shift swaps mean?**

During a ban on overtime and shift swaps, members refrain from working overtime and swapping shifts. During the ban, employees do not agree with the employer on doing overtime work or swapping work shifts.

It is also forbidden to do "grey overtime" and accrue flex hours in flexible working time. In other respects, the members carry out their work normally. They enter and leave the workplace exactly in accordance with the shift marked in the shift roster.

Grey overtime is overtime work for which no overtime remuneration is paid. Instead, the employee earns time off in the same proportion as they have accumulated overtime ("hour for hour").

### **What is overtime?**

Overtime is work carried out by employer initiative and with employee consent. It exceeds a full-time employee's working time. As a rule, a separate employee consent is always needed for overtime.

More exact stipulations on working time can be found in the working time section of each collective agreement.

If you are unsure what for your part constitutes overtime, you can also contact your shop steward or call the on-call phone number which is in the member letter. Alternatively, you can send a message to [lakko@jhl.fi](mailto:lakko@jhl.fi)

**In my employment contract, I've given a consent to be on stand-by. Can I refuse overtime that arises during the time I'm on stand-by?**

Yes, in case the work arising from stand-by exceeds regular working time. In case you have in your employment contract or in a separate stand-by agreement given your consent to stand-by, you can do the work within regular working time. If you are asked to continue your shift, to swap it or to work an extra shift, refuse on the grounds of the ban on overtime and/or shift swaps. In case your employer orders you to continue your shift despite this, you should stay at work. Demand your employer to give the order in a verifiable format: e-mail, text message or with the form named [Order given by employer](#). Immediately notify the shop steward or the union's regional office of the matter. Hold on to the message you received and deliver it to your shop steward or regional office.

**Can new stand-by agreements be concluded during the ban on overtime and shift swaps?**

That is not possible. No new stand-by agreements are concluded during the ban.

**Does the ban on overtime and shift swaps apply to overtime and shift swaps that were agreed on before the start of the ban?**

JHL has outlined that the ban also applies to overtime that was agreed on before the ban started.

**Can I out of my own desire agree to swap shifts with a co-worker during the ban on overtime and shift swaps?**

If the need to swap shifts arises from your or your co-worker's pressing need (e.g. child care arrangements), and your employer approves the swap, you can agree on the matter with your co-worker and supervisor. We recommend that this kind of shift swap is only undertaken in an exceptional situation. Shifts must not be swapped by employer initiative!

**I work flexible hours. Can I increase my "balance"?**

You cannot increase your balance during the ban on overtime and shift swaps.

**I do part-time work. Does the ban apply to me?**

The ban on overtime and shift swaps also applies to part-time employees, regardless of whether they have agreed on part-time work with fixed or variable working time. Thus, you cannot work overtime or swap shifts.

**I do part-time work. Can I accept additional work that exceeds the working time planned for the shift roster?**

Yes, you can. Additional work is not covered by the ban on overtime and shift swaps. Thus, you can accept additional work until a full-time employee's full working time. However, a part-time employee is not allowed to work overtime or agree on swapping shifts.

In part-time work, the agreed working time is shorter than the working time of a full-time employee. You can then do additional work until full-time working time. (in regular and period-based working time 38 hr 20 min/week, and in office work 37 hr 30 min/week). This applies to part-time employees who work under employment contracts with either fixed or variable working time.

**I do part-time work. Can I refuse additional work that exceeds the working time planned for the shift roster?**

Yes, you can. We hope you will say no to additional work if you can do so with consideration to your situation.

**Does the ban also apply to employees working under an employment contract with variable working time?**

Yes, you can do additional work until full working time (full working time in regular working time: 38 hr 20 min per week, in office work 37 hr 30 min per week, and in period-based work the period-specific overtime limit which must not be exceeded is 115 hours/3 weeks or 260 hours/6 weeks).

**Can I do shifts as additional work or overtime for another unit of the employer company during the ban on overtime and shift swaps?**

That is not possible. The same instructions that apply to additional work and overtime also apply to working for the same company in another unit.

**I'm a fixed-term employee. Does the ban apply to me?**

Yes, the ban on overtime and shift swaps also applies to those who work under a fixed-term employment contract.

**I do gig work for a workplace covered by the YSOS TES agreement, and my employer is asking me to come to work because of the ban on overtime and shift swaps. What do I do?**

We do not recommend accepting gigs if you can refuse them with consideration to your situation. This concerns for instance retired people doing gig work, students, and those on family leave. Gig work diminishes the impact of the ban on overtime and shift swaps.

**I'm on a trial period. Does the ban apply to me?**

Yes. The ban on overtime and shift swaps applies to all employees who are in an employment relationship. The employer is not allowed to justify cancelling an employment relationship during the trial period with the employee's participation in a ban on overtime and shift swaps. In practice

however, it may be difficult to prove an illegal cancellation during the trial period. If you wish, you can contact your regional office and ask to be left outside the ban on overtime and shift swaps.

### **I'm a student. Does the ban apply to me?**

The ban on overtime and shift swaps applies to all employees who are in an employment relationship. Thus, the ban also applies to apprenticeship students who are in an employment relationship and get paid a salary for their work. Those who have concluded a training agreement are ruled out of the ban because they are not in an employment relationship, nor are they paid a salary for their work.

### **Will my supervisor participate in the ban on overtime and shift swaps?**

It depends on the supervisor's position whether they are covered by the collective agreement and the application sector of the Working Time Act. This is usually the case with low-grade supervisors/immediate supervisors. Therefore, the ban on overtime and shift swaps, too, applies to them.

### **Can my employer change my shift roster unilaterally during the ban on overtime and shift swaps?**

The shift roster must be made available to the employees in writing at least one week before the start of the period marked in the roster. After that, it can according to YSOS TES only be changed by agreement or if an unforeseeable change occurs in the prerequisites for requiring to perform work.

When the employees refuse to swap shifts, the employer can within YSOS TES only implement those changes to the shift roster for which there is a required justification in the YSOS TES agreement.

Usually, the need to change the shift roster occurs if a sickness outbreak causes a shortage of employees. The employer must always prepare for sickness absences, and individual sickness absences do not justify changing the shift roster, not even during the ban on overtime and shift swaps. Legal industrial action measures are not unforeseeable changes.

### **Can the employer demand to continue a shift that has already started?**

After an employee has arrived for their shift or a shift has begun, the employer can no longer change the shift roster unilaterally. Therefore, the shift roster cannot be changed if the change has to do with lengthening or shortening a shift after an employee has arrived for their shift or it has begun.

### **My employer is demanding me to continue my shift on grounds of emergency work. What do I do?**

Emergency work is work which the employer can order the employee to perform without the employee's consent. The employer may require performing emergency work only if an **unforeseeable** event has caused or seriously threatens to cause an interruption in regular operations in a way that endangers life, health or property, and the work cannot be postponed to a later point in time. The prerequisites of emergency work are stipulated in section 19 of the Working Time Act. If the employer is intending to require to perform emergency work, the employer must

immediately submit a notice to the occupational safety authority. It will assess whether the criteria for emergency work are fulfilled and reacts accordingly. A legal industrial action is not an unforeseeable event.

### **Can the employer rely on protection work?**

No. The obligation to perform protection work does not apply to those in an employment relationship, and there can be no question of it in the private sector. Protection work refers to work done by public servants that is necessary when implementing an industrial action to prevent the health or lives of citizens from being endangered or to protect property that is specifically endangered due to the industrial action.

### **A shift lacks an employee and there is not enough staff. What do I do?**

Notify your employer that there is not enough staff for the shift. If work is repeatedly done with a limited staff in the workplace during the ban on overtime and shift swaps, contact the Regional State Administrative Agency. In addition, the occupational safety and health organisation of the workplace has an obligation to monitor the workload and working time protection.

As a rule, an employee is not responsible for acquiring substitutes, unless that has been specifically determined as one of the employee's work duties.

The employer is responsible for ensuring that there are enough employees in the workplace. The employer must in all situations ensure that a sufficient number of employees, required by agreements and the operating permit, is present in the workplace. The employer must prepare to, say, replace an employee who has fallen ill with a substitute.

### **What do I do in situations that threaten life or seriously endanger client safety?**

In situations that threaten life or seriously endanger client safety, you must act in such a way that client/patient safety is not endangered. These situations may require that work is continued over the working time marked in the shift roster. Examples of such situations include

- sudden fits of illness
- a parent has not picked up their child from day care and you have the sole responsibility for a group of children
- caring for a respiratory paralysis patient.

If client safety is endangered because of the ban on overtime and shift swaps, JHL encourages to file a notification with the Regional State Administrative Agency.

### **Can there only be students working a shift because of the bans on overtime and shift swaps?**

That is not possible. Each student must have a named instructor, and the student works under the supervision of that instructor. This means that there must be at least one professional who has graduated within social welfare or health care working the shift.

### **Can I carry out my planned work shift in another unit in which there is a shortage of employees because of illness?**

You can carry out the shift in another unit if the start and end times of the shift still remain the same. The ban on shift swaps does not apply to changes in place of work or work duties.

**Can my employer transfer me during the ban on overtime and shift swaps to carry out a shift in another unit of the company?**

Collective agreements usually stipulate quite extensively about the place of work. The places of work can for instance be a company's locations in a certain area. In such a case, the employer can transfer an employee to another place of work. Check your collective agreement to see what it stipulates about the place of work. It is however not allowed to change the start or end time of the shift during the transfer. In these situations, one must also ensure that the employee is onboarded and that they are competent.

**I've worked overtime before the start of the ban on overtime. Can I take overtime as leave during the ban on overtime?**

You can either take the overtime as leave or be paid for it. However, taking leave requires that you agree on it with your employer. The idea of the ban on overtime is that no extra work is done. The ban does not prevent from taking leave.

**We've got a working time account in use, and I've accumulated evening and weekend work increments and overtime remuneration on the account. Can I take working time account leave during the ban on overtime?**

The ban on overtime does not prevent you from taking working time account leave if the employer is willing to agree on it. The idea of the ban on overtime is that no extra work is done.

**I've already worked overtime during the current shift roster. Must I now shorten the work shifts at the end of the roster in order to not do overtime?**

No, you don't. The ban entered into force on 2 May at 1 pm.

**My employer is proposing to conclude a new local agreement during the ban on overtime and shift swaps. What do I do?**

Shop stewards and employees should refrain from concluding new local agreements during the ban on overtime and shift swaps. If your employer is pressuring you to enter into a local agreement on, say, stand-by, contact your shop steward or your own regional office.

**Can members of other unions or non-unionised employees participate in the ban on overtime and shift swaps?**

Yes, they can. An employee would not even otherwise have an obligation to agree to overtime or shift swaps. The more employees participate in a ban on overtime and shift swaps, the more effective it is.

**My employer took countermeasures. What do I do?**

During a ban on overtime and shift swaps, the employer may take various countermeasures, such as refuse to confirm new holidays or grant time off. One must prepare for and adapt to this.



However, for instance a holiday that has already been confirmed must not be cancelled because of participation in a ban on overtime and shift swaps.

The employer may also spread false or misleading information about the ban. For this reason, you should only believe what JHL and the strike organisation communicate during an industrial action.

**My employer cancelled my confirmed annual holiday because I'm taking part in the ban on overtime and shift swaps. What do I do?**

The point in time for the annual holiday should be notified at the latest one month (or, if this is not possible, at the latest 2 weeks) before the start of the holiday.

It is not possible to change the confirmed point in time for the annual holiday of an employee in an employment relationship. Notify your employer that a confirmed annual holiday cannot be cancelled unilaterally or moved to another point in time. In case the employer unilaterally changes the point in time for an already confirmed annual holiday, the employer may end up liable to pay a compensation for the damages caused by this to the employee. If necessary, contact your workplace shop steward or the regional office. You can also contact the Regional State Administrative Agency which enforces the law.

**My employer is pressuring me to give up on the ban on overtime and shift swaps and/or resign from the union. What do I do?**

It is not allowed to pressure employees to give up on the ban and resign from the union. In the most extreme case, exerting pressure may even be a crime (Criminal Code, chapter 47, section 3). In such a case, one must always contact the shop steward or regional office immediately. You can also send a message about the matter to [lakko@jhl.fi](mailto:lakko@jhl.fi).

**Can the employer punish an employee taking part in the ban on overtime and shift swaps?**

The employer cannot punish an individual employee for taking part in a ban on overtime and shift swaps implemented by the union.

**Can the employer punish an employee taking part in an industrial action?**

The employer cannot punish an employee for taking part in an industrial action implemented by JHL.