

EU proposal to amend the Working Time Directive (WTD)

announced Wednesday 23 September 2004

Following the 2nd stage consultation on the WTD the social partners involved declined to enter into negotiations and asked the EC to propose a new Directive.

The current UK Working Time Regulations in brief

A limit of an average 48 working hours per week that a worker can be required to work

A right to a rest break of at least 20 minutes during a working day of 6 hours or more

A right to 11 consecutive hours rest per day

A right to a full 24 hour rest period each week, or a full 48 hours in a fortnight

A right to 4 weeks paid leave per year

A limit of an average 8 hours work in any 24 hours which night workers can be required to work

A right to free health assessments for night workers

Proposed changes are outlined below. There is no date yet for implementation.

| Element of working time | Current position | Proposed change |
|---|--|--|
| On call | Following SIMAP and Jaeger cases, on-call time counts as working time when employee required to be on-call at the place of work – even if sleeping in. | New definition of “on-call time”, with time spent working counting as working time and “inactive on-call time” not counting as working time, unless otherwise stipulated by national law or collective agreement. |
| Reference period for calculating average working time | Standard reference period of 4 months that can be increased to 6 months in special cases, or 1 year for offshore workers. Collective and workforce agreements can also increase this to 1 year. | Standard reference period of 4 months that can be increased to 1 year by national law, subject to consultation with social partners. Reference period cannot be longer than the contract of employment. |
| Rest periods | 11 hours rest per day plus 24 hours per week, but which can be derogated and replaced by compensatory rest. | Compensatory daily rest must be taken within 72 hours. |
| Opt-out | Voluntary, but has not been made clear that it should not be part of a contract of employment and that employees should not be asked to sign and opt-out at the same time as (or before) signing their contract of employment. Opt-outs can be | Opt out must be in writing, cannot be given when starting employment or during a probationary period. Opt-out can be cancelled at any time, immediately. Opt-outs can be negotiated by collective agreement but individual |

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| | negotiated by collective agreement. | consent is also necessary. Opt-out can be for a maximum of 1 year. |
| Weekly limit | Theoretical maximum limit of 78 hours per week if all rest periods are taken. | 65 hour maximum in any week unless collective agreement specifies otherwise. |
| Record keeping | Employers have to record who works over 48 hours, but not how many hours. | Employers must record who works over 48 hours and how many hours they work. |