



Briefing Note

Working Time Directive (WTD), Horizontal Amendment Directive (HAD) and Road Transport Directive (RTD)

1. **WTD:** The basic 1998 Working Time Regulations, which implemented the WTD provides for

- An average 48 hour working week
- 4 weeks' paid annual holiday
- One day's rest per week (or two in a fortnight)
- 11 hours' rest between working days
- A statutory in-work rest break
- The offer of a free health assessment for night workers
- An 8 hour limit on night working

However, workers can agree to work longer than 48 hours through signing an individual opt-out. The UK is the only Members State to make use of an individual opt-out.

The WTD excludes a number of sectors:

Road	Rail	Air
Sea	Inland waterways transport	Sea fishing
Offshore work	Junior doctors	

The European Commission will produce a report by November 2003 (although this could be as early as June) reviewing the implementation of the WTD regulations in the UK. The report will focus on the use of the individual opt-out in the UK and the Commission may recommend that the UK lose the opt-out.

2. HAD: Adopted on 1 August 2000, this Directive will be implemented by 1 August 2003, and extends the provision of the WTD to:

- Non-mobile workers in road, sea, inland waterways transport and sea fishing
- Junior doctors
- All those in aviation not covered by the Aviation Directive
- All workers in the rail and offshore sectors

It also provides more limited protection to mobile workers involved in the road transport sector and covered by the RTD who will be entitled to:

- 4 weeks paid annual holiday
- The offer of free health assessments for night workers
- Adequate rest provision

3. RTD: Three further sector specific directives have also been adopted, one of which, the RTD, was adopted on 23 March 2002. This Directive makes provision in respect of breaks, rest periods and working time for those subject to 'the European drivers' hours regulations'. **The RTD is required to be implemented by March 2005 and there is no opt-out.**

The RTD provides for:

- If night work is performed, the daily duty limit must not exceed 10 hours in each 24 hour period (including waiting time)
- *(i) core night period 01.00 – 07.00*
- *(ii) any driver who works so much as one second into this time will be a 'night worker' for that 24-hour period*
- A daily duty limit of 12 hours (including waiting time)
- A maximum working week of 60 hours (including waiting time) provided that the average over a four month period does not exceed 48 hours
- Temporary exclusion of the self employed*

* The RTD applies to employed drivers. However, the definition of self-employment within the legislation is very restrictive and it is likely that the vast majority of contract hauliers will be deemed as 'employed'. In any event, the Directive will also apply to self-employed drivers by March 2009, although timing will be reviewed in 2007.

4. IMPACT

The Quarry Products Association (QPA) has undertaken a review of the effects of the WTD to 'employed' hauliers from March 2005. It estimates that the total cost impact on primary and recycled aggregates, value added products and non-aggregate imports will be £355.8m.

The Road Haulage Association (RHA) estimates that the cost of implementation for most companies will be at least £7,000 per driver.

Key findings of a report recently published by the Centre for Economic and Business Research are:

- Operational costs will increase by £3.8 billion in 2005 (£24.8 billion 2005-2010)
- At least 60,000 additional drivers will be required
- Between 8,000 and 12,000 additional trucks will be needed

5. ACTION

(i) WTD

The CBI will be publishing case studies to show that there is no evidence of abuse of the opt-out and that individual opt-out should be left to individual choice. **Members are urged to support the CBI's current lobbying efforts:**

- Lobbying UK Government to publicly and robustly defend the UK's right to retain the individual opt-out.
- In Europe, lobbying the Commission and UNICE

The CBI thinks that the Review will make one of three recommendations: (i) for the UK to retain its opt-out, (ii) abolition of the opt-out, or (iii) modification of the opt-out. Either (ii) or (iii) is more likely. Whatever the recommendation, it will then go to Co-decision in the European Parliament, which means that if the review goes against us, we will need to lobby MEPs.

(ii) RTD

The Department of Transport (DoT) will not be producing the draft implementation document for another couple of months. There is, however, a DoT Implementation Working Group, on which the QPA has a seat and, through their good offices, we will be able to feed in to this body.

The UK Government has powers of derogation over some aspects of the Directive. Flexibility is permitted at national level on the 48 hour weekly limit (but only by extending the reference period to 6 months) and night work arrangements through company agreements, or by laws, regulations or administrative provisions agreed at national level, provided there has been consultation with the individuals concerned. As an example, it could be possible for a driver to work 4 x 12 hour night shifts Monday through Thursday, have Friday as a day of "compensatory" rest, with Saturday and Sunday as rest days – but again, this is subject to UK consultation.

Industry should, therefore, be urging Government to:

- **Weekly Hours:**
- Extend the reference period when calculating the average working week from four to twelve months
- **Night Work:**
- Reduce the core night period from 01.00-07.00 to 01.00-04.00
- Extend the night work duty period from 10 to 12 hours

Having spoken to the Road Haulage Association, they are confident that the night work duty period will be extended to 12 hours.

Jean Emblin, 20 March 2003

Peter Huxtable, 10 April 2003