

Briefing Note

Main Provisions of The Transport (Working Time) Regulations 2005

The Transport (Working Time) Regulations 2005 came into force on Monday 4 April 2005. The regulations will affect mobile workers (mainly drivers and crew) travelling in vehicles subject to EU drivers' hours rules. Until 4 April 2005 the working time of such mobile workers was only covered by the EU drivers' hours rules and by the provisions in the Working Time Regulations 1998 relating to health assessment (for night workers only) and annual leave. Mobile workers of vehicles that are not subject to the EU drivers' hours rules eg. light van drivers, have generally been subject to the Working Time Regulations 1998 (as amended) since August 2003.

The main provisions of the new regulations are: -

- An average weekly working time of 48 hours calculated over a reference period of 17 or 18 weeks. No entitlement for workers to opt out of the limit.
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- A restriction for night-time workers to 10 hours working time in any 24 hour period. Pre-determined night-time hours between 00.00 hours to 04.00 hours for goods vehicles and between 01.00 to 05.00 for passenger vehicles.
- Where a worker has a total working time between 6 and 9 hours they are entitled to a 30 minute break; or 45 minutes if over 9 hours.
- Breaks and "periods of availability" known about in advance do not count as working time.
- Time off due to sickness absence or annual leave entitlement (paid leave under the Working Time Regulations 1998) cannot be used to reduce average working time and must be considered in working time calculations.

This is intended as a brief guidance note and professional advice should be obtained before acting on any information contained in it.

With acknowledgements to Emma Heald of Mace and Jones, Solicitors for kindly providing this briefing note.



Whilst the main provisions may, at first glance, seem particularly onerous there is room for flexibility in the regulations. For example, flexibilities allow for the reference period to be extended to up to 26 weeks and for the 10-hour nightwork limit to be exceeded. In order to benefit from these flexibilities you need to negotiate collective or workforce agreements with your staff and ensure that proper documentation records the agreement.

In addition, there is a possible exclusion for self-employed drivers but this is strictly defined. Also, workers who occasionally perform a road transport activity may be subject to the Working Time Regulations 1998 (as amended), rather than these new regulations but attention must be paid to the definitions.

Finally, the new regulations will be enforced by the Vehicle and Operator Services Agency (VOSA) in Great Britain.

In getting to grips with the regulations the key thing for you to do is communicate. You need to ask your drivers how they work, how the new limits will affect them and consider with them what you can do to assist them in carrying out your work.

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