

1) What is the WTD about?

The aim of the Working Time Directive is to ensure that workers are protected against adverse effects on their health and safety caused by working excessively long hours, having inadequate rest or disrupted work patterns.

The working time directive provides for:

- a maximum 48 hour working week averaged over a reference period (in general 4 Months);
- a minimum daily rest period of 11 consecutive hours a day;
- a rest break where the working day is longer than six hours;
- a minimum rest period of one day a week; and
- a statutory right to annual paid holiday of 4 weeks, and night working must not exceed eight hours a night on average

2) Does the WTD apply to police officers?

While some specific groups are clearly not covered by the Directive, such as managing directors or other persons with autonomous decision-making powers, the question, whether police officers are covered by the directive is not settled on the European level.

While the European Commission maintains that police officers in general should be covered by the directive unless specific requirements of the service make it impossible to apply the regulation, a significant number of EU Member States still maintain that it is possible to exempt police officers in general from the application of the directive. The European Court of Justice has not ruled on the matter.

3) What is the 'opt-out provision'?

The Directive also gives Member States an 'opt-out' provision, under which individual workers can waive the right to work no more than 48 hours per week. The current WTD does not limit the maximum hours of work in an individual week.

4) What is meant by 'reference period'?

The maximum working time is calculated as an average over a certain period of time. This means that work within an individual week may well exceed 48 hours, provided this is compensated by equivalently less time in others.

5) What does the WTD say about 'on call' time?

In 2000 and 2003, the ECJ issued judgements concerning the classification of 'on call', a term which was not defined in the Directive. In the two cases concerned - [SIMAP](#) and [Jaeger](#) - the Court found that time spent on call should be classified as working time. The ECJ's judgements (which both involved staff in the health care sector) were reflected by a decision in the UK that nine female wardens living in sheltered accommodation should have 'on call' hours classified as 'work'.

6) Why is the Working Time Directive being reconsidered now?

In January 2004, the European Commission published a 10-year review of the Working Time Directive, focusing in particular on the opt-out provision. The opt-out is supposed to be implemented only under certain conditions, and there was some concern that workers were being coerced into 'volunteering' for longer hours.

7) What are the main changes included in the new proposal?

Following consultations, on 22 September 2004, the Commission adopted a Proposal for a Directive amending Directive 2003/88/EC.

- Passive periods during on call time are not considered to be working time, even if the worker is required to be at the disposition of the employer and is required to be at the workplace.¹
- The possibility for an individual employee to agree to work more than 48 hours is made subject to a collective agreement allowing this. Where no collective agreement exists, the 'opt out' can be negotiated with an individual employee, provided legal regulations in the Member State allow this.
- Maximum working time in an individual week may reach up to 65 hours, based on a collective agreement even longer.
- The reference period for the calculation of the average weekly working time may be extended to from 4 to 12 months by national law.
- Compensatory rest has to be taken within a delay of 72 hours.

¹ On call time is now precisely defined in the directive as the 'period during which the worker has the obligation to be available at the workplace in order to intervene, at the employer's request, to carry out his activity or duties'. On call time is only considered as working time during the period during which the worker is carrying out his activity or duties.