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**1999 No. 3372**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Working Time Regulations 1999**

*Made - - - - - 16th December 1999*

*Coming into force in accordance with regulation 1(1)*

Whereas the Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to the organisation of working time(b);

And whereas a draft of the following Regulations was laid before Parliament in accordance with paragraph 2 of Schedule 2 to that Act and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 2(2) of that Act hereby makes the following Regulations—

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Working Time Regulations 1999 and shall come into force on the day after the day on which they are made.

(2) These Regulations extend to Great Britain only.

**Amendments to Regulations**

2. The Working Time Regulations 1998(c) (“the 1998 Regulations”) shall have effect as amended by regulations 3, 4 and 5 below.

**Maximum weekly working time**

3.—(1) In regulation 4 of the 1998 Regulations—

- (a) for the words “Subject to regulation 5” in paragraph (1) there shall be substituted the words “Unless his employer has first obtained the worker’s agreement in writing to perform such work”;
- (b) at the end of paragraph (2) there shall be added the words “and shall keep up-to-date records of all workers who carry out work to which it does not apply by reason of the fact that the employer has obtained the worker’s agreement as mentioned in paragraph (1)”; and
- (c) for the words “by virtue of regulation 5” in paragraph (7)(d) there shall be substituted the words “by reason of the fact that the employer has obtained the worker’s agreement as mentioned in paragraph (1)”.

(2) In regulation 5 of those Regulations—

- (a) paragraphs (1) and (4) shall be omitted; and

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(a) 1972 c. 68.

(b) S.I. 1997/1174.

(c) S.I. 1998/1833.

- (b) in both paragraph (2) and paragraph (3), for “paragraph (1)” there shall be substituted “regulation 4”.

#### **Unmeasured working time**

4. Regulation 20 of the 1998 Regulations shall be re-numbered as paragraph (1) of that regulation, and after that provision the following paragraph shall be inserted—

“(2) Where part of the working time of a worker is measured or predetermined or cannot be determined by the worker himself but the specific characteristics of the activity are such that, without being required to do so by the employer, the worker may also do work the duration of which is not measured or predetermined or can be determined by the worker himself, regulations 4(1) and (2) and 6(1), (2) and (7) shall apply only to so much of his work as is measured or predetermined or cannot be determined by the worker himself.”

#### **Guidance**

5. The following regulation shall be inserted after regulation 35 of the 1998 Regulations—

“35A.—(1) The Secretary of State shall, after consulting persons appearing to him to represent the two sides of industry, arrange for the publication, in such form and manner as he considers appropriate, of information and advice concerning the operation of these Regulations.

(2) The information and advice shall be such as appear to him best calculated to enable employers and workers affected by these Regulations to understand their respective rights and obligations under them.”

16th December 1999

*Stephen Byers*  
Secretary of State for Trade and Industry

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Working Time Regulations 1998, which implement Council Directive 93/104/EC concerning certain aspects of the organisation of working time (O.J. No. L307, 13.12.93, p. 18).

Regulation 3 amends regulation 4 of the 1998 Regulations, which limits the maximum weekly working time of workers to an average of 48 hours, and regulation 5 of those Regulations, which provides for that limit not to apply in relation to a worker who has agreed to exclude it. The effect of the amendments is to replace detailed requirements imposed on the employer of workers who have agreed to exclude the limit with a requirement, reflecting terms which appear in the Directive, to keep up to date records of such workers.

Regulation 4 amends regulation 20 of the 1998 Regulations, under which workers whose working time is not measured or predetermined, or who can themselves determine the duration of their working time, are excepted from provisions of the Regulations relating to weekly working time, night work, rest periods and breaks. The amendment adds a further paragraph, applicable to cases where a worker's working time is partly measured, predetermined or determined by the worker and partly not. In such cases, the provisions relating to weekly working time and night work will only apply in relation to that part of the worker's work which is measured, predetermined or cannot be determined by the worker himself.

Regulation 5 inserts an additional regulation 35A in the 1998 regulations, requiring the Secretary of State to consult the two sides of industry and to publish information and advice enabling those affected to understand their respective rights and obligations.

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**STATUTORY INSTRUMENTS**

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