
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the provisions of Council Directive [2005/47/EC](#) (OJ No. L195, 27.7.05, p15) of 18th July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector. The Regulations apply to workers whose daily shift includes more than one hour on train services going through the Channel Tunnel that require at least two network safety requirement certifications. These workers are referred to as cross-border workers in the Regulations.

Regulations 3 to 7 give cross-border workers entitlements to rests and breaks from work.

Regulation 8 obliges the employer to take reasonable steps to ensure the requirements relating to driving time set out in that regulation are complied with.

Regulation 9 requires the employer to keep records and provide copies of the records.

Regulation 10 to 16 and Schedule 2 contain provisions in relation to enforcement. An employer's obligations under regulations 8 and 9 are enforceable by the Office of Rail Regulation and an employer's failure to comply with an obligation under either regulation is an offence.

Regulation 17 makes provision in respect of complaints to an employment tribunal.

Regulation 18 prevents contracting out of the provisions of the Regulations, subject to exceptions set out in regulation 18.

Regulation 19 and Schedule 3 amend the Working Time Regulations 1998 (S.I. 1998/1833, as subsequently amended, including by S.I. 2003/1684, which is relevant to these Regulations).

The Working Time Regulations 1998 implement Directive [2003/88/EC](#) (OJ No. L299, 18.11.03, p9) of the European Parliament and of the Council of 4th November 2003 concerning certain aspects of the organisation of working time. Article 14 of that Directive provides that where other Community instruments contain more specific requirements relating to the organisation of working time for certain occupations or occupational activities the Directive does not apply.

Council Directive [2005/47/EC](#) contains more specific requirements than some of the requirements of Directive [2003/88/EC](#). Consistent with Article 14 of Directive [2003/88/EC](#), Schedule 3 amends the Working Time Regulations 1998 so that the provisions on compensatory rest do not apply to cross-border workers.

Regulation 19 and Schedule 3 also amend the Employment Tribunals Act 1996 (c.17), the Employment Rights Act 1996 (c.18) and the Employment Act 2002 (c.22) so that provisions of those Acts that refer to the Working Time Regulations 1998 also refer to these Regulations.

A full Impact Assessment of the effect this instrument will have on costs for business and voluntary sectors has been produced and is available from the Rail Sponsorship and International Division, Department for Transport, Great Minister House, 76 Marsham Street, London SW1P 4DR.

A copy of the Transposition Note is also available from the Department for Transport.

Copies of the Impact Assessment and of the Transposition Note may also be accessed on the Office of Public Sector Information website www.opsi.gov.uk.

Changes to legislation:

There are currently no known outstanding effects for the The Cross-border Railway Services (Working Time) Regulations 2008.