



**EMPLOYMENT RELATIONS  
RESEARCH SERIES NO.19**

Implementation of the  
Working Time Regulations:  
follow -up study

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EMPLOYMENT STUDIES

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# Executive summary

*The Working Time Regulations do not seem to have been an issue of major concern over the last three years to most organisations interviewed. Nonetheless, there remain a few areas of concern and/or confusion arising from the Regulations as originally drafted. Recent and forthcoming changes to the Regulations were not seen as problematic by most employers. However, some were unaware of these changes, which could have implications for the organisations concerned.*

## **Application of the Working Time Regulations**

In general, it was clear that for most organisations the WTR had been given little consideration over the period since the previous research that was carried out in 2000. Even in those organisations for which the WTR had most significance, the WTR were just one of the factors influencing changes in working time arrangements, since the last time the case studies were interviewed.

### *The 48-hour week*

Most (11 out of 15) organisations had not made any changes since 2000 in the way they complied with the weekly working time limits and so the use of the individual employee opt-out was still common. However, one organisation had made changes that removed the need for the opt-out.

Other recent measures to reduce hours in order to meet or come closer to the 48-hour threshold and so to meet long term objective for a fundamental reduction in working hours involved increased staffing and changed shift rostering.

A minority of organisations raised concerns about the possibility that the potential to use opt-outs might be removed. When explored in more detailed, face-to-face interviews these concerns seemed to be particularly associated with the possibility that there might be a sudden change to the Regulations that did not involve phasing.

### *Rest and recuperation*

Only one of the 15 organisations had made any changes to its rest provisions in the period since the previous study. In general it seemed that the Regulations in this area were being applied, however there were some indications of local practice in contravention of the WTR. In addition, some employers felt that the Regulations lacked clarity around issues such as the location of the in-work break; and the overlap between the daily and weekly rest provisions.

### *Annual leave entitlement*

The general entitlement of four weeks paid leave was not an issue for most organisations. However, this research showed that the provision of leave to casual staff, and the calculation of holiday pay, identified as concerns in the previous study, were still problematic for some organisations.

### *Night-work*

The night-work limits were not a concern to the employers involved in the follow-up study. The previous research found that the aspect of the Regulations that had significance for most employers was the introduction of health assessments. Organisations now generally have in place procedures for screening new recruits to night-work. However, arrangements for repeat assessments seem to be less systematic. In practice, however, the introduction of health assessments seem to have had little impact, with only two employers identifying one or two workers who had been removed from nights for health reasons.

## **Implications of changes to the Regulations**

Generally the recent and forthcoming changes to the WTR were not a concern to the employers interviewed, with only the change in the leave entitlement provision affecting more than one or two employers. However, there was evidence that some employers were unaware of some of the changes and so had yet to consider the implications for their organisation. The amendment about which there seemed least knowledge was the change to the calculation of night-work.

### *Young workers*

None of the 15 organisations considered that they would be affected by the application of the eight-hour daily limit to young workers, however, two had not reviewed the implications of the new Regulations prior to this research. In two cases it was felt that not being able to employ young workers on nights might involve some change of practice in marginal areas.

### *Changes to annual leave entitlement*

Changes to UK law following the case brought by BECTU (Broadcasting Entertainment Cinematograph and Theatre Union) removed the 13-week qualifying period for accruing leave entitlement. The requirement that leave entitlement should start from day one of employment had meant changes in leave provision in over a third (six) of the 15 organisations.

### *Including all overtime in night-work calculations*

None of the organisations that were aware of the change in the Regulations in this area (eight of the 11 with night-workers), saw the change in calculations as affecting their arrangements. However, three employers did not know about the change prior to the research and each felt that it might involve changes to existing practice.

### *Excluded sectors*

In the organisations covered by this research the main group currently excluded from the WTR, but which are to be brought under the terms of the Regulations, are junior doctors. From the evidence provided by two NHS Trusts it would seem that much of the work on complying with the new Regulations will have been done via the national

agreement on hours known as the 'New Deal', although complying with this agreement was posing some problems to at least one of the Trusts.

## **Impact of the Working Time Regulations**

In most cases the WTR were not seen as a major business issue. However, the interviews produced some evidence of working time reduction arising from the Regulations and examples were given of operational benefits including more efficient ways of working and the positive impact on worker flexibility and efficiency of reduced working hours. Where a negative impact was cited it was most commonly in relation to increased labour costs, however only one company identified substantial costs which were directly associated with the WTR.

## **About this project**

This research was carried out as part of the Department of Trade and Industry's employment relations research programme. It was undertaken by Fiona Neathey, from the Institute for Employment Studies.

In 1999 and 2000 research was conducted to explore how organisations had adapted to the Working Time Regulations (WTR) which came into effect in October 1998, and to examine the impact of the WTR at workplace level. This report sets out the findings of follow-up research in 15 organisations. Each of these organisations was involved in the previous study conducted for the Department of Trade and Industry. The current study was designed to explore developments in application of the WTR over the three years since the original research was conducted. It also aimed to review the impact of recent and forthcoming changes to the Regulations in respect of: young workers; holiday entitlement; night-work calculations and sectors currently excluded from the WTR.

The research involved telephone interviews with management contacts in each of the organisations and more detailed interviews in five establishments which, either had not fully implemented the WTR at the time of the previous research, or were more likely to be affected by the changes to the Regulations.

# 1

## Introduction

The Working Time Regulations (WTR) came into force in the UK on 1 October 1998. In February 1999 the Department of Trade and Industry (DTI) commissioned research to provide an initial assessment of the impact of the Regulations. That research had two stages:

- Detailed case studies of 20 organisations six months after implementation of the Regulations.
- Further research in 15 of these organisations, 12 months later.

The results of which were published in the DTI Employment Relations Research Series<sup>1</sup>.

This report brings together the findings of a study following-up the research conducted in 1999 and 2000. The aim of this study was to review further progress and experience in implementing the WTR, with specific reference to the impact of legal developments over the period. These legal developments related to:

- The implementation of the Young Workers' Directive (from 6 April 2003).
- The impact of the BECTU (the Broadcasting Entertainment Cinematograph and Theatre Union) judgement which gives paid leave entitlement from day one of employment (from 1 October 2001).
- Changes to night-work calculations to include all overtime (from 6 April 2003).
- The implementation of the Horizontal Amending Directive extending working time protection to currently excluded sectors (from 1 August 2003). Plus the Road Transport Directive which will require the introduction of further protection for road transport workers by March 2005.

The original studies were conducted by IRS Research. The lead researcher on the project, Fiona Neathey, subsequently moved to the Institute for Employment Studies. For reasons of consistency and to maintain the confidentiality of the organisations involved, this research was undertaken by Fiona Neathey, in her new position.

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<sup>1</sup> Neathey F, Arrowsmith J, *Implementation of the Working Time Regulations*, Employment Research Series No 11, DTI 2001. <http://www.dti.gov.uk/er/emar/wtr.pdf>

## Approach

The research was undertaken between February and April 2003. The project had two stages:

1. Telephone interviews with the 15 organisations (summarised in the table below) which were involved in the second stage of the original study<sup>2</sup>. All these organisations were sent a letter in advance of the telephone call reminding them of the previous research and explaining the reasons for contacting them again. As with the previous study all organisations participated in the research on the basis that they would not be identified in the research report. The interviews covered:
  - Whether the organisation was still in business.
  - Further progress and developments in relation to the implementation of the WTR.
  - The impact of recent and forthcoming changes in relation to the law on working time in respect of: the qualifying period for leave entitlement; young workers; excluded sectors; and the calculation of night-work.
2. Detailed interviews (face-to-face, in all but one organisation) in five organisations which on the basis of the telephone interview appeared to merit further study. This was either because the changes in the WTR had particular implications for the organisation concerned, or because at the time of the original study there were issues in relation to the WTR which were outstanding. The case studies involved in this stage of the research were: an engineering company (case study 3); a security company (case study 7); an NHS Trust (case study 8); a retailer (case study 15) and a contracting company (case study 19).

Interviews were conducted with the senior manager who had lead responsibility for implementation of the WTR (typically a senior member of the HR function). In one organisation a discussion was also held with a trade union representative. The interviews covered:

- The way that the organisation originally decided to implement each of the aspects of the Regulations.
- How any issues in relation to the WTR, which were outstanding at the time of the original study, had been addressed.
- Any changes/developments in the approach originally adopted and reasons for these.
- Business changes which have followed-on from the implementation of the WTR.
- Impact of implementation of the WTR on the business

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<sup>2</sup> The sample for the original study was not statistically representative so neither the earlier research nor the current study can be interpreted as being representative of the economy as a whole. However, the original sample of 20 was selected to reflect a variety of organisations which had adapted their working practices to comply with the WTR. The sample was designed to include the range of sectors most likely to be affected by the Regulations and to ensure a mix of small, medium and large organisations. The 15 organisations that went on to be included in the second stage of the original research (and so were involved in the current study) were those where the Regulations did have implications for the practices of the organisation and where it was possible to arrange workplace interviews. Neither of the small organisations included in the first stage of the research met these criteria, so both the second stage and the current study were based on the experiences of medium and large organisations.

## 1. Summary of WTR issues in case study organisations based on 1999/2000 research\*

Case study**	Sector	No. of employees	Workers in excess of 48 hours	Changed rest break provision	Changed annual leave provision	Made changes for night-workers
1	Charity	200-499	Yes	Yes	No	No
3	Engineering	200-499	Yes	No	No	Yes
4	Printing	200-499	Yes	Yes	No	Yes
7	Security	1,000 +	Yes	Yes	Yes	Yes
8	NHS	1,000 +	Yes	Yes	Yes	Yes
9	Social housing	200-499	Yes	No	Yes	Yes
10	Food manufacture	200-499	Yes	Yes	No	No
11	Utilities	200-499	Yes	No	No	No
12	Finance	1,000 +	Yes	Yes	Yes	Yes
14	NHS	200-499	No	Yes	Yes	Yes
15	Retail	1,000 +	Yes	Yes	Yes	Yes
16	Finance	1,000 +	No	Yes	No	Yes
18	Hotels	1,000 +	No	Yes	Yes	Yes
19	Contracting	1,000 +	Yes	Yes	Yes	Yes
20	Engineering	200-499	Yes	Yes	Yes	Yes

\* Changes in the table above refer to those at the introduction of the WTR. Please see previous studies<sup>3</sup> for further details.

\*\* Case study numbers are as used in the previous study. Missing numbers in the sequence applied to those organisations that did not take part in the second phase of the original study and so were not included in this research.

<sup>3</sup> Neathey F, Arrowsmith J, *Implementation of the Working Time Regulations*, Employment Research Series No 11, DTI 2001. <http://www.dti.gov.uk/er/emar/wtr.pdf>

## 2

# The 48-hour week

Under the terms of the Working Time Regulations employers should take all reasonable steps to ensure that workers do not work an average of more than 48 hours a week. The normal averaging period is 17 weeks, but this can be extended to 26 weeks in cases where workers are covered by a WTR derogation, or up to 12 months through an agreement between employers and workers. However individuals can agree on a voluntary basis to opt-out of this aspect of the Regulations through a written agreement with their employer.

The 1999/2000 research found that for most organisations interviewed the number of workers regularly working in excess of 48 hours was small. Only five organisations had people working over the limit on a frequent basis. The main response to the Regulations was to encourage workers to sign forms opting-out of the 48-hour limit. This approach was used by some organisations that did not have regular long hours working, as well as most of those that did. In addition some (seven) signed a collective or workforce agreement to vary the reference period, whilst others made changes to working practices to reduce hours worked by individual workers.

In general, over the period since the last research, organisations had made few changes in the way that they had implemented this part of the Regulations. However, for organisations with long hours working there had been some developments aimed at reducing working hours and there was some evidence of the use of opt-out provisions coming under scrutiny.

### **Change since 2000**

Most (11) of the 15 organisations contacted by telephone said that there had been no changes in the way that the 48-hour limit provision had been implemented. Three of the exceptions were explored via more detailed interviews (case studies 7, 8 and 19). In addition, one organisation had found that it no longer needed to use individual opt-out agreements due to changes in working arrangements:

- A printing company (case study 4) previously had one group of workers that worked as much as 60 hours per week in peak periods. Workers in this group were asked to sign opt-out forms but the company has since

introduced a new permanent night shift, removing much of the need for overtime working.

Detailed interviews were conducted in four organisations where workers were regularly in excess of the 48-hour limit. Two organisations, the engineering company (case study 3) and the security company (case study 7), still relied heavily on the use of opt-outs.

### **Case study 3**

The company's approach to implementing the weekly working time limits involved:

- The use of opt-outs for most operatives in the plant with high levels of overtime working, particularly by those on night shifts, where in one area total working hours regularly exceeded 48.

The only change made by the engineering company to working time arrangements over the past three years, was to make the signing of an opt-out agreement a condition of employment for new starters who would be working nights. For one of two night shifts total working hours were still almost always in excess 48.

### **Case study 7**

Prior to introduction of the WTR, normal working hours for most operational staff in the security company were in excess of 58 a week, while in some areas there were as high as 84 a week. High levels of overtime working were (and remain) endemic in a sector typified by low hourly rates of pay.

The company's original approach to implementing the WTR involved:

- Widespread use of the opt-out.
- A collective agreement with a four-week reference period.
- Changed working arrangements designed to address the most extreme examples of long hours working which included staff who regularly did seven twelve hour shifts in a week (*ie* 84 hours). Managers were given responsibility for identifying these cases and then making changes to reduce hours so that no one was working more than 72 hours a week on average. As far as the HR manager was aware by the time the follow-up study was conducted this objective had been achieved. The managing director still conducts spot-checks of local working hours to ensure that there are no other extreme examples.

The company had taken further measures to reduce the very high levels of long hours working in the company since the previous research in 2000.

The main working time change had been a move to new rosters for around a third of those security officers who were involved in providing 24-hour, seven day a week cover (a total of 168 hours). The standard roster for this type of cover had involved three people each working two weeks of five 12-hour shifts followed by one week of four. This produced an average of 56 hours a week.

Then, since this was the base roster, additional shifts were worked to provide cover for holidays and sickness.  
Hence the average would typically be higher than 56 hours (around 72).

The new arrangement involved four people working four 12-hour shifts followed by four days off. This gave average weekly hours of 42 a week. However, once more this was the base figure. Employees on this roster were keen to work additional shifts in order to reduce the cut in earnings. In fact providing cover meant that most people had average working hours of 56 a week, and so as with most workers providing 24 hours cover, they were still required to sign opt-outs in order to be employed on this shift pattern.

The company was motivated to make this change by its ongoing commitment to reduce working hours. It was able to do so at this stage because it was successful in recruiting additional staff, making the new rotas based on higher staffing levels possible.

Two other case study organisations had made progress in implementing the changes in staffing and working patterns, which were only at planning stage when the original research was conducted.

#### **Case study 8**

The NHS Trust made a decision at the outset that it would not use opt-outs as a way of complying with the Regulations. At the time of the original research plans to address long hours working in respect of radiographers and pathology laboratory staff had yet to be finalised although the Trust had already decided that it would be necessary to employ additional people to cover the shortfall left by an hours reduction.

At the time that the current study was conducted, work in this area was still ongoing, with some staff in these groups still working in excess of 48 hours at critical times. This long hours working was sufficiently frequent for the hours of some staff to be potentially in breach of the 48 limit even with averaging. This was a particular problem in radiography where it had been difficult to recruit the additional staff needed. Action taken so far had included reducing the number of people needed on on-call rotas/doing extended hours by multi-skilling the staff concerned.

The long hours working of managers was seen as an issue that still required action. The '*culture of long hours*' was '*less pervasive*' than it had been prior to the introduction of the Regulations, however weekly working in excess of 50 hours a week was still thought to be happening. A diary exercise had been undertaken and the Trust had plans to 'educate' managers in this area as part of its work-life balance programme.

#### **Case study 19**

The contracting company had important pockets of long hours working in its contracting division. Its original approach to implementation of the 48-hour limit involved:

- A collective agreement with a 52 week reference period.
- Plans to change working arrangements for key groups of staff.
- Plans to increase staffing levels.

By the time that this research was conducted the company believed it had been successful in ensuring there were now very few cases where employees exceeded an average of 48 hours worked over a 52 week period. This was achieved by increasing staffing to enable a reduction in the number of days that mobile staff could be on stand-by to deal with emergency maintenance and raising the number of people on a stand-by rota from two to three. The HR manager reported strong union, HR and senior management pressure on local managers to monitor the overall hours worked by employees and to manage rotas to ensure that those close to the threshold would not exceed the 48-hour limit over a year. In some cases this had involved banning certain staff from doing any more overtime. The hours that they would otherwise have done were covered by the additional staffing and by other members of staff doing more overtime on a voluntary basis.

Discussions were underway at the time of the research with the aim of reaching a new collective agreement, which would support this change by setting fixed criteria that a supervisor must comply with when organising work.

The WTR were seen as helping the company to change working practices which in some areas were threatening the health of employees. There had been three occupational health referrals in the previous year where hours that were close to the 48-hour limit were seen as at least part of the cause of ill-health. The steps taken to exert further central control over hours worked were prompted by concerns about such cases, as well as the need to ensure WTR compliance.

One further development had assisted in the management of working time. Most of the company's customers were in local government and the company had terms and conditions for its employees that were largely in line with those in that sector. A local agreement on single status terms and conditions had introduced a contractual week of 37 hours, but with seasonal variation. For most of the year agreed hours were 39 a week. However, over a period covering November to February, they were reduced to 32.5. This was the period in which there were most unpredictable calls on maintenance teams. The reduced contractual hours meant that more hours were available over this period for stand-by and overtime working.

## **The future of the opt-out**

At the time that the research was undertaken the European Commission was reviewing the opt-out and other aspects of the Working Time Directive. As already indicated, a number of organisations covered by this research had used the opt-out provisions as the main way of complying with the weekly working time limits in the WTR, although one of these as indicated above was no longer doing so by the time that this research was undertaken. When telephone interviews were conducted, organisations were not asked any

specific questions in relation to the use of opt-outs. However, three organisations raised the potential loss of this provision as a cause of concern. These concerns were explored in more detail in the face-to-face interviews.

The security company (case study 7) was '*committed to the continued gradual reduction in working hours*'. However, the abolition of the opt-outs was seen as potentially providing major problems for the industry as a whole as well as the company itself, especially if the requirement to abandon the opt-out did not allow for any phasing out over a period of time.

The following example explores the arguments presented by this company in more detail.

The security industry is a highly competitive sector where price offered is a key determinant of success in winning contracts and where there are a large number of small operators, many of whom, according to the company HR manager and the full-time TU official, have little regard for employment law. Wage rates are traditionally low and even in those companies that do comply with National Minimum Wage legislation, wages are often not above the minimum level. The company (case study 7) pays above the National Minimum Wage, but its ability to raise wage levels is restricted by competition from other lower-paying suppliers. In this context employees have traditionally used very long working hours to maintain their standard of living.

If the opt-outs were abolished without any phasing out gradually the company would not be able to compensate employees for their loss of earnings. The HR manager and TU official believe that they would lose staff to other sectors and/or to less scrupulous employers in the security industry. In addition, increased pricing to enable some increase in wages would be likely to result in the loss of contracts.

However, if faced with a sudden loss of the opt-out the company's approach would be likely to involve:

- the wider use of four-on-four-off rosters with increased attention given to ways to provide guaranteed hours averaging 48 a week;
- increase in the reference period from 4 to say 17 weeks to allow greater flexibility. The most appropriate length of reference period would be reviewed should the need arise, but working patterns did not imply that a great deal would be gained by a reference period of longer than 17 weeks.

Although the HR manager and the trade union official felt that a sudden loss of the opt-out would be difficult for the company to manage, the HR manager did say one potential benefit might be that it would produce a more '*level playing field*' when dealing with companies which have so far done nothing to reduce their long hours working. On the other hand the loss of some of the distinctiveness of the company's practices could undermine its position in the market as a relatively good employer offering relatively high quality service.

The view of the HR manager was that a phased approach to the enforcement of a 48-hour week would be easier to handle, perhaps by starting with a much higher threshold of, say, 60 hours a week.

The engineering company (case study 3) was concerned about the potential loss of the opt-out, however it had not considered how it might deal with the issue. The HR manager's view was that '*I'm sure that we will be given notice and there are more immediately pressing issues*'. The use of an extended reference period was not seen as an alternative to the opt-out since long hours working was a fairly continuous feature of working patterns for one

group of workers. The company had had problems recruiting to its night shift so did not think it would be easy to cover the additional hours with extra staffing.

The retail organisation (case study 15) only used opt-outs for the small number (estimated at one per cent of the workforce) who worked in excess of 48 hours a week. The small number of local opt-outs is reflected in the fact that this data is collected manually at local store level and then accessed as necessary by the centre. The plan was to develop an electronic system but there were questions as to whether the size of the task merited the costs involved. The company did not have any concerns about the abolition of the opt-out. Any uncovered hours would be taken up by other members of the workforce, most of whom worked part-time.

## Young workers and the working week

Amendments to the WTR designed to implement the terms of the Young Workers Directive<sup>4</sup> came into effect on 6 April 2003. Under the terms of the new Regulations young workers (those over the minimum school leaving age but under 18) should not normally work more than eight hours in any one day, although the Regulations allow some variations to this rule. The impact of this change was explored in both the telephone and face-to-face interviews. Nine of the 15 organisations did not employ any young workers at the time the interviews were conducted. None of the organisations with young workers had identified practices which might be in contravention of this provision, although two (case studies 3 and 8) were unsure how the change would impact in their organisation.

Those who were aware of the change in Regulations did not consider that it would have any implications for their company.

- The retail organisation employed a large number of young workers; around 20 per cent of the workforce was aged under 18. However the change did not have any implications for the company which already limited the hours for young workers to eight a day (case study 15).
- A finance company (case study 16) employed some school leavers, but these worked a maximum of 35 hours over a five day period, and did not exceed eight hours in any one day.
- The contracting organisation employed a '*handful of 16 and 17 year olds*' and these are '*already treated with kid gloves*'.
- A second finance company (case study 12) did not see the daily limit on young workers as raising any issues. However, there were some concerns about the restriction on night-work (see Chapter 5).

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<sup>4</sup> EC Directive on the Protection of Young People at Work 94/33/EC.

# 3

## Rest and recuperation

Under the terms of the Regulations adult workers have entitlement to three kinds of break between working periods. These are:

- An in-work break of at least 20 minutes if the working day is longer than six hours. (Adolescent workers are entitled to a 30 minute break if they work for longer than four hours).
- Eleven hours consecutive rest between each working day.
- A rest of one day off a week or two days off a fortnight.

Workers in a range of special circumstances including shift workers may be excluded from these entitlements. In addition, rest provision can be modified or excluded in an agreement between the employer and the workforce. However, in all these cases employers are required to make provision for 'compensatory rest'.

At the time of the original study most organisations were already providing an in-work break, however a greater number needed to make changes in order to implement the other two rest provisions. The range of changes introduced included: new rest entitlements; compensatory rest provision; reinforcing existing entitlements; the end to seven-day working and revised shift arrangements.

Only one of the 15 organisations had made changes to their rest provisions over the past three years: the security company (case study 7) had changed in-work rest provisions. Under the terms of the original collective agreement the in-work rest entitlement was for 30 minutes break after six hours. This was changed, via collective bargaining, to two 15 minute breaks. The reason for this change was that it was found to be easier to provide for shorter breaks in environments where there is just one member of staff on duty.

## Application of rest provisions in practice

The face-to-face interviews explored how rest provisions had been applied in practice in the organisations concerned. This indicated that, although it seemed that the Regulations were generally being applied, issues of interpretation of the Regulations remained a concern for some employers. Areas of uncertainty included: the appropriate location for an in-work break; whether daily and weekly breaks should be treated separately; and providing breaks for workers covered by different WTR provisions. In addition the contracting company had found that it was necessary to be vigilant in order to ensure that operational considerations did not lead to line managers ignoring the Regulations in respect of their staff.

### Case study 7

In the security company the main changes in response to the WTR were:

- Ensuring that all staff have in-work breaks. (Now two 15 minute breaks).
- An end to seven-day working to ensure that people get the weekly break.
- Provision in the collective agreement for compensatory rest.

Local managers were required to ensure that these provisions were implemented. Issues arising that were determined locally included where the in-work break was taken (on site or off-site). The HR manager reported that there remained some issues around the definition of when an individual was resting and when on duty. Generally it was taken that when an employee was actively monitoring security: via televisions screen; whilst patrolling etc., then they were on duty. When they were on site and available to respond should they be called for, but were not going about their active duties, they were taken as resting.

There was no central monitoring of the application of the in-work rest provisions by the company. However, the HR manager was not aware of the issue being raised by trade union representatives recently and there had been no individual or collective grievances relating to breaks.

Seven-day working was no longer the norm amongst staff in the security company. The HR manager's view was that it now only occurs '*in an emergency*'.

The company was not clear of the extent to which compensatory rest was actually claimed by employees. The HR manager's view was that there could be practical difficulties in ensuring that it was taken by the employee concerned, even though the local managers could allow for paid compensatory breaks in some circumstances.

### Case study 3

In the engineering company the HR manager had concerns about one issue: night-workers worked four long shifts of ten hours (plus overtime of one or two hours) and then on Friday afternoon come in again to do a half shift, after a break of just eight hours. He had been unable to gain confirmation from the

HSE or DTI as to whether this reduced daily break was covered by shift working derogations, and whether the subsequent break of 72 hours before the next shift provided compensatory rest.

### **Case study 15**

In implementing the WTR the retail organisation:

- Increased in-work breaks from 15 to 20 minutes (after six hours).
- Increased breaks for young workers from 15 to 30 minutes (after four hours).
- Worked to restrict the number of people doing a late followed by an early shift who were therefore not getting the required daily break.
- Relied upon the shift working derogations.

The company employed a large number of 16-18 year olds and also 15 year olds. The need to treat people differently according to their age had been a major source of local confusion. According to the HR policy adviser '*this is the part of the Regulations about which we receive most queries from local managers*'. In addition, in respect of adults the six-hour threshold for a break did not fit with normal shift arrangements. Local store managers had been provided with central guidance designed to ensure that their rest provisions were not in breach of the Regulations but beyond this considerable local flexibility was allowed. For example, in practice in many stores breaks were taken after four rather than six hours. This was both because this would typically be half way through a normal shift and also because it enabled greater consistency in the treatment of adult and young workers. The HR advisor's view was that in-work break provisions of the WTR were generally complied with in the company.

There had been a reduction in the numbers of people not getting the full daily rest break but this still occurred at points when the shift patterns change, however this practice was seen to be covered by the shift working derogation.

### **Case study 8**

The main aspects of the NHS trust's approach to implementation of the WTR were:

- ensuring that staff take in-work breaks; and
- planning changes to the shift patterns of staff in operating theatres in order to ensure that there were adequate breaks between shifts.

The Trust successfully changed its shift rotas to stop staff doing a late shift followed by an early one and as a result not getting the required break. Initially this practice was removed completely, however there were concerns at the time that this study was conducted that there might be collusion between some line managers and staff to reintroduce what for some staff was an attractive arrangement because of the extended period of free time that followed the two shifts.

### **Case study 19**

In the contracting organisation ensuring local manager implementation of agreed changes was the main issue that had emerged over the period since the original research was conducted.

The main elements of the company's approach to the Regulations relating to rest involved the following:

- Under the terms of the collective agreement a minimum daily break of seven hours was introduced.
- Starting to introduce changed working practices to end seven-day working.
- Providing local management guidance on the provision of compensatory rest.

The HR manager reported that revised working practices should now ensure that employees were guaranteed one day off each week or two days off in a fortnight. However, there had been local resistance to this from line managers trying to ensure the fulfilment of contracts and who had workers willing to work the break in order to attract overtime. The HR role had been to '*wave the Regulations*' at managers and to use trade union support to ensure proper rest break provision.

The company's instructions to line managers on compensatory rest was that anyone whose rest period was disrupted by work should receive equivalent compensatory rest within a 'reasonable period' There was no central monitoring of this aspect of the agreement.

# 4

## Annual leave entitlement

Under the terms of the Regulations workers are entitled to at least four weeks paid leave each year. This entitlement is inclusive of public holidays.

The original study found that this was the least problematic aspect of the WTR for employers. Only two companies had major groups of employees who did not already receive this level of leave entitlement. However, a more difficult issue was the provision of leave to casual workers; and some employers identified concerns in respect of the calculation of holiday pay.

October 2001 saw a change to the Regulations following the judgement in the case brought by BECTU (the Broadcasting Entertainment Cinematograph and Theatre Union), which challenged the 13-week qualifying period for annual leave entitlement. Entitlement to annual leave, including the right to compensation payments for any untaken leave, now begins from the first day of employment. Employers are able, if they chose, to use an accrual system whereby during the first year leave entitlement builds up monthly in advance at the rate of one-twelfth of the annual entitlement each month.

Interviews conducted for this study explored both the impact of this change and the way that the original Regulations on leave have been applied in practice. This analysis shows that both providing leave for casual staff and implementing the rules on calculation of holiday pay have proved problematic for some organisations.

### Applying the BECTU amendment

In nine of the organisations involved in this study leave entitlement accrued from day one prior to the BECTU judgement. In six organisations the amendment to the Regulations following this judgement required changes to holiday provision.

- In a charity (case study 1) leave entitlement now accrued from day one for all staff.
- The security company (case study 7) had implemented the change as part of the annual pay agreement. Holiday accrual was calculated on a hourly basis. However, by agreement with the trade union, staff were 'not expected' to take leave until they had been with the company for eight weeks. The company had a fixed annual leave year, however it allowed

up five days leave to be carried-over for up to three months into the following leave year. The company thought that this provision might be in contravention of the Regulations, but had found that some employees liked to keep a few days holiday '*for emergencies*', and without carry-over this leave would be lost.

- One of the NHS Trusts (case study 8) had implemented entitlement from day one.
- In the housing association (case study 9) holiday entitlement started on day one of employment with accrual on a monthly basis.
- The retail organisation (case study 15) updated its policy in line with the change. All staff accrued leave from day one and could take it after the first month. The leave year was fixed but those joining in the last month of a year were able to take the leave accrued at the beginning of the next year.
- In the hotel (case study 18) all staff accrued holiday entitlement from day one and this was calculated on the basis of each hour worked.

## **Leave for casual workers**

For some organisations the key issue remained how to apply leave provisions to casual or 'as and when'/'bank' workers who do not have guaranteed working hours. Some organisations took the view that it was impractical to provide paid leave to staff who were only called in when they are needed and instead paid accrued holiday at the end of the work period, or paid an enhanced hourly rate. Others had introduced or were trying to introduce some form of paid leave for casual workers. However, those that had adopted this approach tended to be the organisations employing casuals for periods of days or weeks at a time, rather than those using them on an 'as and when' basis. In general the issue of leave for casual staff seemed to be an area of confusion for some employers.

Examples of the approach of paying in lieu of leave included:

- Bank staff in one of the NHS Trusts (case study 8) were paid retrospectively for leave entitlement accrued over the previous six months. They received one hour's pay for every 12 hours worked with the actual amount paid taking into account hours worked at enhanced as well as basic rates. This approach was adopted because it was not seen as realistic for bank staff to formally book holiday on a day that they would otherwise be working.
- In the security company the final arrangement agreed was that casuals accrued one day's leave for each 12 worked. This was provided in the form of holiday pay rather than time off, because it was seen as impractical to provide time off for people who are only called in at short notice when they are needed. The company was concerned that this provision might not fully follow the letter of the WTR. Due to the need to conduct security screening in the case of all new staff, casuals were employed on one year contracts usually without any guaranteed hours (rather than having a separate contract for each period of work). The concern was that this could be interpreted as meaning that even though

someone might only actually work four weeks in a year they could be seen as having a full four weeks holiday entitlement. The HR manager said *'DTI Guidance is clear that in the case of those working part-weeks in that their entitlement is pro-rata, but is silent on those who may work full weeks but for only a small part of the year, while still nominally being employed for the whole year.'*

Other employers had moved to some nominal leave provision for casual staff.

- The housing association (case study 9) had previously given pay in lieu of holiday to casuals. It had changed this to a requirement to take leave. Any untaken leave was taken at end of the contract.
- In the charity (case study 1) casual staff received all of their leave at the end of their contract.

The contracting organisation had yet to resolve this issue. Under the terms of previous agreements 'supply' staff received an enhanced rate to compensate for lack of holidays. However, to implement the Regulations the company was now trying to negotiate a reduced rate plus compulsory leave for this group.

## **Holiday pay calculation**

For the retail company the Regulations on calculation of holiday pay had proved the most problematic and costly part of the WTR to implement.

Calculation of normal earnings was initially taken to exclude unsocial hours premia payments. This was challenged by an individual grievance taken by a member of staff and policy was changed by the company before it reached an Employment Tribunal. This change is seen as having resulted in *'substantial'* additional cost by the company.

We found evidence that at least one employer was misinterpreting this aspect of the Regulations. In the hotel (case study 18) for each hour worked workers on the standard rate attracted 24p in accrued 'holiday pay'. This would indicate that either the hotel was not applying the correct calculation to the payment of holiday pay or it was paying below the National Minimum Wage. A basic rate set at the level of the National Minimum Wage at the time the interview was conducted would mean the accrual of holiday pay at the rate of 35p for each hour worked.

# 5

## Night-work

The Regulations set a limit on night-work (for most workers) of an average of eight hours in each 24-hour period. A night-worker is someone who normally works at least three hours at night. Night-time is between 11pm and 6am. The standard averaging period is 17 weeks but this can be extended under the terms of the relevant derogations or by agreement between employer and workers. Workers and employers can also agree to vary the definition of night-time.

There is also considerable scope for variation by collective or workforce agreement in the definition of who should be taken as a night-worker. Night-workers are entitled to a health assessment before being required to undertake night-work, which should be repeated on a periodic basis.

Thirteen of the 15 organisations in this study were identified in the previous research as having some people working at night. Eleven of these considered that they had night-workers as defined by the Regulations and so had taken action to implement the WTR. The most significant part of the Regulations for most organisations was the implementation of health assessments, with only a minority needing to make any changes to bring night-working hours in line with the WTR limits.

Under the original Regulations overtime, apart from guaranteed overtime, was excluded from night-work calculations. However, effective from 6 April 2003, this changed and all hours worked must now be included when determining whether or not an individual is working in excess of the WTR limit. This study explored this change with employers. It also reviewed implementation of the original changes required by the night-work Regulations. The recent change was generally felt to have very little impact. In terms of implementation, the only issues highlighted by employers were a concern that they might not have in place adequate arrangements for repeat health assessments for night-workers.

Only two organisations had seen changes in the application of night-work provisions since the original research was conducted: the introduction of a permanent nightshift by the printing company (case study 4) was done with a view to compliance with the WTR. So staff on these new contracts received 'full medical cover including health assessments' and work four shifts of nine hours each, followed by three nights off.

In addition the contracting company (case study 19) had reached a collective agreement on night-work which defined both night time and the night-worker in line with the WTR definitions.

## **Impact of change to night-work calculation rules**

The majority of organisations (eight of the 11 with night-workers as defined by the Regulations), did not see the change in night-work calculation rules as having any implications for them. This was either (in six cases) because overtime was rarely or never worked at night, or (two cases) because all overtime was already included in night-work calculations. However three employers were not aware of the change prior to the research interview (most of which took place shortly before the revised Regulations came into effect). In two cases, the interviewee felt that the change might require revisions to existing practice. In the third case (case study 19) the interviewee explored the issue after the telephone interview was conducted and confirmed that all hours worked at night were already included in the company's calculations.

## **Application of night-work provisions in practice**

The detailed interviews explored the application of the night-work provisions in practice. The practice in relation to health assessments is explored below. This section reviews other changes implemented in respect of the night-work Regulations, and finds, that apart from an apparent area of misinterpretation by one company, this has been an unproblematic area.

The original response of the engineering company to the WTR involved the mistaken assumption that the use of opt-outs absolved the company from the need to limit hours worked at night. In fact it was not clear that night-working actually exceeded the average of eight hours when averaged over 17 weeks. It certainly did not do so under the rules that excluded non-guaranteed overtime. However, the company considered that in some cases the limit was being exceeded now that all overtime should be included. The HR manager, however, still felt that the use of opt-outs meant that this was not a problem.

The main aspects of the security company's approach to implementing the night-work provision of the WTR were:

- Under the collective agreement a night-worker was defined as all those working 50 per cent or more of their time on nights.
- Static security patrols were exempt under the relevant industry derogations.
- For mobile workers night shifts were reduced to nine hours including a one hour break.

There have been no issues or developments for the company in relation to any of these arrangements.

As for the other case studies:

- The use of a 52 week reference period meant that the NHS Trust (case study 8) did not need to introduce any changes to night-work practices in order to comply with the WTR.
- The retail company (case study 15) also did not need to make any changes to working practices for those employees working at night. Despite the extension of opening hours the amount of night-work undertaken in the company had fallen over the past three years. This was because it has been found to be more efficient and cheaper for the majority of shelf replenishment and deliveries to take place during the day. So night-work typically just involved a small number of till operators in those stores which had 24-hour opening. Their hours were '*well within*' the night-work limits.
- The contractor (case study 19) used a collective agreement that gave a reference period of 52 weeks for averaging night-work and also increased the limit on night-work from eight to 11 hours in a 24 hour period. In addition changed working arrangements and the introduction of new staff supported compliance with this, as with other aspects of the Regulations.

## Health assessments

The original research found this to be the most significant aspect of the WTR night-work provisions for most employers. By the time this research was conducted all the organisations had an established system for conducting health assessments of new recruits to night-work posts, often as part of a general pre-employment screening process. Employers had some concerns relating to the need for repeat assessments, but generally has seen little in terms of real impact, with just two companies reporting one or two cases of staff being moved from or refused a night-work position as a result of screening.

- All new staff in the security company (case study 7) were given a medical when they joined. However, after this staff were only informed of their entitlement to subsequent assessments via a newsletter which covered a number of issues. The take-up of voluntary health assessments had been low. The union official doubted whether most staff were aware of their entitlement. There was some concern in the company that more active provision of health assessments, for example by contacting individuals directly with an appointment offer, might be needed, if not to comply with the WTR at least with HSE guidance.

Only one person had been moved off nights to the HR manager's knowledge: the individual was a diabetic. Working in the early hours of the morning has been found to be particularly detrimental to diabetics, according to the HR manager, so the employee concerned was moved to day-only duties.

- In the engineering company (case study 3) all night-workers in post when the WTR were introduced were offered the opportunity of having a health assessment based initially on a health questionnaire, with medical follow-up as required. Two groups of workers worked on a permanent night

shift. One of these groups was willing to have an assessment. The other was very resistant and suspicious according to the HR manager, and had initially refused to undergo an assessment. However, no employee had been moved off night-work as a result of an assessment.

The HR Manager admitted that the company had since then '*been a bit remiss*' in not offering a subsequent assessment to existing employees and felt that this was something that they should do. However all new joiners automatically received a medical on taking up their employment.

- The retail company (case study 15) introduced compulsory health assessments for night-workers who were defined as any worker who '*regularly*' works three or more hours at night. Assessments were organised by local store personnel managers on the basis of questionnaire with medical follow-up as necessary. The HR adviser was not aware of any employees being unwilling to undertake an assessment, or of anyone who has moved off night-work as a result of that assessment.
- New employees who might be required to work nights in the Trust (case study 8) were '*flagged-up*' via the recruitment process. All recruits completed a pre-employment health questionnaire. Potential night-workers were automatically interviewed by a health adviser. HR monitored to ensure that the necessary processes have been completed. The Deputy Director of HR was not aware of any cases whereby employees were prevented from working nights as a result of a health assessment.
- All night-workers at the contracting company (case study 19) were compelled to have a health assessment. It was a disciplinary offence to refuse an assessment, which had to be undertaken annually. The HR manager said that some employees saw this requirement as a '*waste of time*' and had expressed their concerns. However, the disciplinary sanction meant that no individual had actually refused to undergo an assessment. He reported '*one or two*' cases whereby an individual had been moved from night-work as a result of any assessment. In both cases a special assessment was conducted following a health incident involving the employee, which found that the change in health status meant that the individual should not be doing night-work. The company's approach to health and safety and night-work has been a cautious one, based on the assumption that it is '*better to be safe than sorry*'.

## **Young workers working at night**

Amendments to the WTR implementing the Young Workers Directive, include the requirement that in general young workers should not work at night. The implications of this change were explored in both telephone and face-to-face interviews. Interviewees in just one of the 11 organisations employing night-workers saw the change as affecting their companies. In this case this was where young workers were employed in a 'marginal' area.

- A finance company (case study 12) was concerned that temporary employment agencies might send a young worker to do a night shift because the agency was unaware of the new Regulation. The company does not necessarily know the age of agency staff.

# 6

## Excluded sectors

The EU Horizontal Amending Directive (HAD)<sup>5</sup> extends working time protection to previously excluded sectors (road, rail, sea, inland waterways transport, sea-fishing, offshore work and the activities of junior doctors). In addition, there are three Directives specific to the Road Transport, Aviation and Seafaring industries.

The original research did not include organisations in any of the excluded sectors. However, a minority had some workers who were covered by the exclusions in respect of road transport workers and young doctors. In this study the implication of the extension of the WTR to these areas was discussed with the organisations concerned.

The amendments to the WTR arising from the HAD introduce the following rights from 1 August 2003 for road transport workers.

- Non-mobile workers in the road transport industry are covered by the full range of WTR provisions: the average 48-hour working week; four weeks' paid annual leave; one day's rest in seven (or two every 14 days); 11 hours' rest between working days; 20 minutes rest break if the working day is over six hours; health assessments for night-workers; limits imposed on night-working; and special protections for young workers.
- Mobile workers not covered by the Road Transport Directive (RTD)<sup>6</sup> or other industry-specific directives are covered by the 48-hour average working week; four weeks' paid annual leave; and health checks for night-workers. They do not receive the same rights in relation to rest and recuperation but are entitled to 'adequate rest'. Night-work limits do not apply to this group.
- Mobile workers covered by the Road Transport Directive will receive four weeks paid annual leave; and the right to receive health assessments if a night-worker.

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<sup>5</sup> 2000/34/EC.

<sup>6</sup> Directive 2002/15/EC.

The RTD is due to be implemented by March 2005. This will introduce a maximum working week of 60 hours (subject to an average of 48 hours over a four-month period); and a night-work limit of ten hours.

In respect of junior doctors' rest, leave, and night-work provisions of the WTR are effective from 1 August 2004. The working hours limit is to be phased in over eight years as follows:

- 58 hours by 1 August 2004
- 56 hours by 1 August 2007
- 52 hours by 1 August 2009
- 48 hours by 1 August 2012.

In the UK another development has led to pressure to reduce doctors' hours and appeared, from this study, to be driving change in this area. A national agreement (the 'New Deal') signed in 1991 provided for a phased reduction of junior doctors' hours. A new pay system agreed in 2000 gave a strong financial incentive for NHS employers to reduce doctors' hours under more rigorous terms than implied by the HAD. Junior doctor posts are allocated to pay bands according to hours that they are required to work. From 1 December 2002 those posts that were not compliant with the New Deal (and so exceeded 56 actual hours a week) were paid twice the basic rate which applies to doctors whose hours did not exceed 40 and who worked entirely between 8am and 7pm Monday to Friday.

## **Developments in transport workers' working time**

From the telephone interviews only one of the 15 organisations identified themselves as having transport workers who from 1 August 2003, will be excluded from the WTR. This company, the retail organisation (case study 15) was included in the more detailed research.

The retail organisation did not consider that the forthcoming changes would impact on the company since most of its deliveries now took place during the day and it had already taken measures to reduce working hours to less than 48 a week.

## **Developments in junior doctors' working time**

This study included two NHS Trusts, each of which was taking measures to reduce junior doctors' hours.

### **Case study 8**

The larger Trust was '*struggling with compliance*' with the New Deal due to problems of providing cover in areas of skills shortage. Working hours had been reduced to 52 for most doctors, by introducing new posts, but shortage problems meant that in some areas, working hours sometimes exceeded the 56-hour limit. However, given averaging, this was unlikely to be a problem in respect of implementation of the HAD. In other departments such as Accident and Emergency, shorter working hours were well-established. New

appointments were all based on 40 hours work and so were being paid on the bottom pay band.

Other measures being used to reduce hours included the replacement of on-call rotas with shift work and revising skills mix, by training nurses to become nurse practitioners and so enabling them to conduct some duties previously undertaken by junior doctors.

The Trust was using two measures to monitor compliance with the New Deal, which it would also use to ensure that all aspects of the WTR were complied with (holidays, rest breaks and night-work as well as weekly hours limits when they applied). Regular diary studies were undertaken. In addition, the Trust was using software called 'rota works' which enabled it to review past rotas for compliance and to test the impact on working hours and wage costs of changes to rotas and/or the introduction of additional staff.

#### **Case study 14**

The other Trust was also addressing hours worked on-call as a way of reducing the hours of junior doctors. It was auditing on-call duties to determine the hours worked and number of call-outs in order to establish whether there is another way of delivering this service. As part of activity both in respect of the New Deal and the WTR it was also looking at the current interface between senior nurse and doctor responsibilities.

# 7

## Impact of the WTR

The original study found that in the majority of cases the WTR had only marginal impact on organisations covered by the research. For some, however there were significant labour cost implications. None the less a few organisations, including the security company where cost was an issue, identified operational advantages from the implementation of the Regulations.

In this research the detailed interviews again explored the impact of the Regulations. In addition, some comments on impact were offered during the telephone interviews. In most cases the WTR were not seen as a major business issue and the majority of organisations had given little consideration to the issue over the three years since the previous study. The exception was the contracting company where the HR manager said that in his experience the WTR were '*very much in the mind*' of line managers when organising the work of their staff, and where discussions were still continuing on ways of exerting greater centralised control over working patterns.

Despite the lack of current interest in the WTR as an issue for most organisations, the interviews produced some evidence of working time reduction arising from the Regulations and examples were given of operational and health and safety benefits. Where a negative impact was cited it was most commonly in relation to increased costs.

### Impact of the WTR on working time

In this study we sought to explore whether the implementation of the WTR had led to any actual reduction in working hours in the organisations interviewed.

Under the terms of the Regulations employers are required to keep adequate records to ensure that they have complied with working time and night-work limits. In the detailed interviews conducted for this research employers were asked to indicate whether their working time records had shown any reduction in working time following on from the WTR. In fact only one of the five organisations was keeping centralised records that enabled it to give a comprehensive response to this question. Others relied on information relating to specific parts of the workforce or a general impression to give their view. One company (the security company) had seen a steep drop in average working hours soon after the introduction of the WTR, but much more gradual

change since then. Two others had evidence of reduced hours amongst groups such as managers and junior doctors. The HR manager in the contracting company saw ongoing line management and individual worker concern about the issue as evidence of the success in restricting working hours.

- The security company (case study 7) had a computerised rostering system which recorded all working hours centrally and via which local managers had access to the information in respect of their staff. In the early months after the implementation of the WTR figures from the system showed a big drop in the average number of hours worked. This was largely the result of the end to seven-day working. Since that time there was evidence of some further small decline, bringing the average down by a further one to two hours. One of the reasons for this decline is that the area where the four-on-four-off shifts had been introduced were the ones which previously had had the highest incidence of long hours working.
- In the retail organisation (case study 15) working time information was collected locally on the basis of clocking in and out. Local summaries were produced from this information which would identify anyone working close to, or above 48 hours. As set out above, information on the average working hours of those close to the threshold, including those who had opted out, was monitored manually. The HR adviser was not aware of any general pattern of hours reduction or increase since the introduction of the WTR. However, recent research on work-life balance in the store indicated that there had been a reduction in the average hours of managers which now stood at around 42 hours a week. This change was seen as part of the general shift in organisational culture in respect of working time, rather than specifically the WTR.
- The NHS Trust (case study 8) had not introduced the comprehensive working time monitoring system that had been planned at the time of the original study. Instead departmental monitoring was used to determine progress in respect of working time reduction. In addition, diary exercises and new rostering software was used in respect of the working time of particular groups such as junior doctors. No comprehensive information was available on changes in working time, however, as mentioned in Chapter 2, the Regulations were seen as having contributed to a move away from a long hours culture amongst senior managers.
- In the engineering company (case study 3) there was no central monitoring of working time on a systematic basis but '*we would use clock records to do this if we had to provide any information*'. The main element of the company's approach to the WTR was the use of the employee opt-out. The Regulations had had very little impact and as far as the HR manager was aware there had been no change in working hours since the introduction of the WTR.
- The contracting company (case study 19) had different time recording systems for each of its divisions and for its white-collar staff. In the construction division, which was the only one with regular long hours working, a divisional computerised data base was used by line managers to monitor the hours of their staff and to ensure that they remained below

an average of 48 over the year. The fact that some employees and managers regularly complained about the need to restrict overtime was seen as evidence that the policy was being implemented and so average hours (which had been 56 or more for some groups) had reduced.

## Operational impact

Four companies reported positive operational benefits arising from changes made to comply with the WTR:

- The HR manager of the security company (case study 7) continued to take a positive view of the impact of the Regulations on operational efficiency. The move to shorter standard working hours had given the company greater potential flexibility to deal with emergencies and to meet the temporary needs of the customer. Also the role of the security officer was changing and becoming more demanding, in a way that was '*not compatible*' with long hours working. For example they were now often required to provide fire/emergency cover; to provide reception duties; to use computer equipment and to be public facing in a way that was not the case in the past.
- In another case, the HR manager of a food manufacturer (case study 10) reported that working time changes made to implement the WTR have been extended to other parts of the business due to their operational benefits. The company had introduced revised shift arrangements and contracted overtime for the main group of employees that was working in excess of 48 hours a week, so ensuring that hours did not exceed the limit. This change was found to have significant efficiency benefits and so had since been extended to other groups, even though their working hours were not in excess of 48 a week (case study 10).
- The HR manager in the contracting company (case study 19) considered that by reducing working hours operational efficiency had been increased because people were '*no longer dead on their feet*'.
- In a fourth case information systems established to comply with the WTR had helped to clarify and justify staffing needs. A finance company made a decision when the WTR were first implemented that opt-outs would not be used. A detailed system for monitoring working hours was used in those areas where there was a risk of WTR contravention. This information had subsequently been used to justify increases in headcount (case study 12).

## Health and safety

Just one organisation, the contracting company, identified a positive impact relating to the health and safety of staff. The HR manager said that the Regulations made it far easier to impose '*better practice*' in relation to working hours, which in some areas had been leading to the ill-health of employees.

## Costs of the WTR

The detailed interviews explored any negative impact/costs of the WTR. Areas explored in the first study such as employee morale and industrial relations were not seen to be affected by the Regulations. Negative impact that was reported related to labour costs and staff turnover.

- Only one organisation, the retail company, felt that it has seen substantial increased costs arising from the WTR as an issue. These were the result of the changes made by the company to holiday pay calculations to incorporate unsocial hours premia.
- The contracting organisation had incurred increased labour costs by increasing its staffing, however much of this cost was covered by the resulting reduction in the bill for overtime pay.
- The NHS Trust (case study 8) had seen substantial shifts in labour costs arising from working time change in general but was unable to separate out impact of the WTR specifically.
- The union official in the security company felt that the company had lost some contracts as a result of increased costs arising from hours reductions. In addition, both the HR manager and union official reported that some staff had left as a result of the introduction of the 'four-on-four-off' roster which only gave a guaranteed working week of 42 hours.