European Working Time Directive: a prescription for regulating junior doctors' Working Time?


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Abstract

This study explores attempts to regulate working time in a particular part of the medical sector. The specific focus is upon the perceptions and experiences of those in whose benefit the legislation purports to be, namely the junior doctors. It considers how the broader debates surrounding the European Working Time Directive (EWTD) are manifested in this specific section of the medical profession. The study argues that historical modes of regulation through self-governance, professional autonomy and minimal state intervention have helped to foster opposition to the EC law among many senior doctors. Their views about working-time regulation are compared to those provided by junior doctors. This enables an assessment of the ways in which traditional self-regulation has been overtaken by subsequent forms of governance in the medical profession, namely new public management and statutory control. The accommodation in process underlines the significance of the medical profession's exclusive culture and socialisation processes. These processes facilitate the transmission of ideas on issues such as work conditions, and occupational resistance to measures such as the Directive. Conversely, the difference in attitudes between senior and junior doctors reflects the evolving nature of the profession in response to increasing managerial authority and state intervention. Following on from these debates, the study explores the processes by which the various modes of regulation have been implemented and enforced. It considers the respective roles played by the state, hospital managers and the medical profession, exploring the impact of working time regulation, with particular reference to doctors' health, medical training, and medical staffing and services. The study provides an assessment of the emerging impact of the regulation itself. The study draws upon a mix of methods including semi-structured interviews with Pre-Registration House Officers and elite figures. The latter comprise policy-makers at EC, UK and devolved levels senior figures within the medical and health services, including employer and employee representatives and members of both the UK and European judiciary. Questionnaire surveys were also administered to all PRHOs practising in Wales. The study concludes that a combination of factors have diluted the potential impact of the EWTD. These include the inadequate monitoring and enforcement mechanisms of a regulation whose fundamental terms have been 'fudged' by the state on the one hand, and the widespread application of a rigid shift system by the medical profession and hospital managers to junior doctors' training and service on the other. As a result, views on the EWTD are inconsistent and the degree of compliance with its provisions is variable.

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On 1 August 2004 junior doctors in the National Health Service and other healthcare systems throughout Europe will no longer be excluded from the provisions of the European Working Time Directive. Their working hours will then be limited by law, first to 58 hours a week and then, by 2009, to 48 hours. This will demand even more profound changes for the NHS than seen so far in the long march for better working conditions for junior hospital doctors. The original directive on working time became law in 1993, but doctors in training were excluded, along with workers in the road, air, rail, sea. The Working Time Directive 2003/88/EC, is a Directive in European Union law. It gives EU workers the right to at least 4 weeks in paid holidays each year, rest breaks, and rest of at least 11 hours in any 24 hours; restricts excessive night work; a day off after a week’s work; and provides for a right to work no more than 48 hours per week. It was issued as an update on earlier versions from 22 June 2000 and 23 November 1993. Since excessive working time is cited as a major cause of stress, depression