

## ● Medico-legal advice

# Directive has implications for management and record-keeping

**Dermot Casserly** of Beauchamps Solicitors outlines the key points of the Working Time Directive and what is required in terms of limiting the hours that doctors work

The Organisation of Working Time Act 1997 implements the EC Working Time Directive (93/104/EC) (consolidated in Directive 2003/88/EC) (the Directive) and provides that workers in the EU are generally subject to a maximum working week of 48 hours.

The aim of the Directive is to limit maximum hours of continuous working, daily working and weekly working, and establish minimum entitlements to rest periods and paid annual leave for most EU workers.

The 'activities of doctors in training' were excluded from most of the requirements of the Directive until recently under the European Communities (Organisation of Working



Time) (Activities of Doctors in Training) Regulations 2004 (the Regulations). A phased implementation of the Directive has now resulted in a 48-hour average working week being introduced from August 1,

2009 for doctors in training.

'Activities of a doctor in training' are defined in the Regulations as the activities of a registered medical practitioner other than the activities of:

(a) a hospital consultant.

(b) a consultant psychiatrist, whether in hospital practice, practice in the community or both; and

(c) any other person, not being a person in hospital practice

or psychiatric practice, who is entitled to be registered in the Register of Medical Specialists and who works without being supervised in professional matters by any other person.

All doctors in training are now prohibited from working on average in excess of 48 hours for each seven-day period. This does not mean that a working week can never exceed 48 hours, it is the average calculated over a six-month reference period that is important. The calculation of 48 hours does not include annual leave, sick leave or maternity/adoptive/parental leave.

They are also entitled to:

- 11 consecutive hours rest in any 24-hour period and a rest break of 15 minutes for each consecutive working period of four hours and 30 minutes, and a rest break of 30 minutes for each consecutive working period of six hours, which latter period may include the aforementioned 15-minute break.
- A minimum uninterrupted

rest period of 24 hours plus 11 hours for each seven-day period. The doctor in training may be refused the required rest period one week provided he is given two rest periods of 24 hours in the following week.

## On call hours

'Working time' means any period during which an employee is working, at the employer's disposal, and carrying out the activity or duties of his work – including on-call duty performed by an employee where he is required to be physically present at his place of work.

This means that all time spent on-site (in a hospital or clinic) on-call counts as working time under the Regulations, but time spent on-site when off-call (for example, on a training course) does not count. Time spent off-site on-call does not count as working time unless doctors are also required to perform a particular service while they are on-call off-site.

Compliance with these Regulations will give rise to challenges for hospital management and there will be practical implications for management in terms of record-keeping.

● **Dermot Casserly**, Partner and Head of Employment and Benefits Beauchamps Solicitors. Email: d.casserly@beauchamps.ie

## A. Menarini

### Bursary for Cardiologists in Training

Irish Board for Training in Cardiovascular Medicine

The A. Menarini Bursary for Cardiologists in Training valued at €35,000 will be awarded to a candidate from the SpR Training Programme in Cardiology

The aim of this award is to facilitate trainees in Cardiology, who have completed their general Cardiology training, to undertake a period of research or further specific clinical training abroad.

This award will be limited to those currently participating in the ICHMT Cardiology Training Programme.

Applicants should submit:

- Detailed Curriculum Vitae, outlining training to date
- Detailed proposal of the work/research to be undertaken
- Confirmation from the host institution of its willingness to accept the applicant.

Applications should be returned to Stella Lawlor at the Irish Heart Foundation, 4 Clyde Road, Ballsbridge, Dublin 4. Tel. No: 01-6685001 or by email on [slawlor@irishheart.ie](mailto:slawlor@irishheart.ie) before close of business on Tuesday 1st December 2009

