



**AN BILLE UM CHOSAINT OTHAR AGUS DOCHTÚIRÍ FAOI
OILIÚINT, 1999**
**PROTECTION OF PATIENTS AND DOCTORS IN TRAINING
BILL, 1999**

EXPLANATORY MEMORANDUM

Purpose of the Bill

1. The purpose of the Bill is to end the complete exemption from the Working Time Act, 1997, of all junior hospital doctors and other doctors in training. At present junior hospital doctors must work lengthy rostered hours and in many instances long continuous periods “on call” at work. The result however is in many cases extremely long periods of continuous work in excess of 48 hours with minimal or no rest period in many cases.

2. The introduction of controls of working times for junior hospital doctors will in the first instance protect patients from mistakes made by exhausted and over-worked staff. Secondly, it will provide basic protection for the health and welfare of junior hospital doctors themselves.

3. Essential to this scheme is a recognition that so called periods “on call” at work are very often, for the junior hospital doctor, periods of intense activity and work, and any attempt to exclude “on call” hours at work from the legislation would make the controls meaningless.

4. Remedies for breach of the legislation are set out in the Organisation of Working Time Act, 1997. A complaint may be made to a rights commissioner who may recommend compensation of up to two years pay in the event that the legislation is not complied with. There is an appeal to the Labour Court and ultimately decisions may be enforced by the Circuit Court which may order that such compensation be paid.

Provisions of Bill

5. *Section 1* removes existing exemptions for doctors in training in the Act of 1997. *Section 2* provides that new exemptions may not be added by regulations.

6. The new working time rules for doctors in training i.e. mainly all junior hospital doctors are proposed as follows. They must have a break of 11 hours in every 24 and a maximum of 48 hours per week. Provision is made in *section 5* for the 48-hour week to be phased in. Under *section 3*, working time is deemed to include call at work.

7. *Section 4* repeals a section in the Act of 1997 on proof by certificate which is unconstitutional following the Supreme Court judgment in the *Employment Equality Bill* case [1997] 2 IR 321.

8. *Section 5* provides a limited seven-year lead-in period for the measures proposed. Matters involving rest breaks etc. would come into force after three months, but the Minister would be empowered to vary the maximum working time on a progressive basis to bring it down to the 48 hour period being proposed in the Bill, over a seven year period, in accordance with a collective agreement.

9. *Section 6* provides for regulations. *Section 7* provides definitions and *section 8* provides the short title and related matters.

An Teachta Eilís Mhic Mhánaís,
Bealtaine, 1999.