



‘Beyond Brexit’ briefing

Implications of the UK’s decision to leave the European Union for fair and safe working rights



Let the people decide



British Medical Association – ‘Beyond Brexit’ Briefing

This BMA new briefing paper sets out their views on Employment rights - Implications of the UK’s decision to leave the European Union for fair and safe working rights.

The UK’s membership of the EU has had a significant impact on the development of employment rights for doctors. Legislation such as the European Working Time Directive, the right to equal pay between men and women, and other EU laws have strengthened safety and equality provisions for doctors in the UK.

This improves patient care and works towards creating a better work environment which is more likely to retain doctors – the effect of which is incredibly important given the current pressures on the NHS.

Once the UK has left the EU, Parliament will decide which areas of EU-derived legislation, including legislation on employment rights, should remain, undergo amendments, or be repealed. The BMA is keenly aware of the potential risks to doctors if key employment protections, such as the Working Time Regulations, are repealed.

❖ Key Points

- The European Union (Withdrawal) Act gained Royal Assent in June 2017. The Act will repeal the European Communities Act 1972 and incorporate current EU laws into UK law. Parliament will decide which areas of EU- derived legislation including, for example, legislation on employment rights, should remain, undergo amendments, or should be repealed.
- The EWTD (European Working Time Directive) and the measures which it has transposed into the UK WTR (Working Time Regulations) – namely the limit of a 48-hour average working week, rest breaks and statutory paid leave – form key health and safety legislation. The BMA is calling for the WTR to be retained and protected after the UK’s departure from the EU.
- EU law underpins the Equality Act 2010, including rights to equal treatment for part-time workers, health and safety protections for pregnant workers and rights to maternity leave, emergency time off for



dependents, and parental leave. While the government has committed to maintaining equality rights and transposing other rights into UK law upon withdrawal from the EU, the BMA has concerns that they will become more vulnerable to amendment, narrower interpretation, and weaker enforcement following Brexit.

- The BMA is calling on the UK Government to fully incorporate the right to equal pay between men and women, as outlined in Article 157 of the EU Treaty, into UK law.

❖ Key Developments

In December 2017, following concerning reports of support within government for the removal of the WTR from UK law, the BMA wrote to the Prime Minister along with twelve leading health organisations, asking her to not remove the WTR but to properly invest in and resource the medical workforce instead.

In February 2018, the Prime Minister responded to the letter stating that while ‘This Government has committed not to roll back workers’ rights’, in the future ‘it would be for Parliament and, where appropriate, the devolved legislatures to decide on employment law’.

In April 2018, members of the House of Lords overwhelmingly voted to approve a change to the EU (Withdrawal) Bill which would have prevented the Government from amending or overturning existing EU laws on employment rights after Brexit without full parliamentary scrutiny or consultation with stakeholders. This amendment was, unfortunately, overturned by MPs in June 2018, when the Bill returned to the House of Commons.

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❖ Summary

Membership of the EU has brought wide-ranging benefits to UK doctors through the adoption of European employment legislation into UK law.

Such legislation makes better provision for patient safety and for equality of doctors' employment terms, both of which are beneficial to the NHS as a whole.

The UK's decision to leave the EU has the potential to limit the future of such benefits, and to weaken those which currently exist, depending on Parliament's eventual decisions regarding which areas of EU legislation should remain, undergo amendments, or should be repealed following Brexit.

There is therefore a substantial risk to the NHS around employment rights and Brexit, and it is vital that the government consider carefully the BMA's proposals, and the proposals of other key stakeholders, in the decision making process.

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