

SER UNANIMOUS IN ADVISORY REPORT ON AMENDMENT TO WORKING HOURS ACT

The Social and Economic Council of the Netherlands (SER) is unanimous in its recommendations in its advisory report of 25 April 2003 to the Government on the amendments to the Working Hours Act. The report was prepared by the SER's Committee on Work, Enterprise and Worker Participation (Arbeid Onderneming en Medezeggenschap, AOM), chaired by Professor P.F. van der Heijden.

The proposals to amend the Working Hours Act were prompted by the findings of an evaluative study of its functioning. The Minister of Social Affairs and Employment requested advice on the following proposed amendments:

- Simplification of the dual norm system (i.e., the application of the statutory norm system combined with the consultative norm system), creating a possibility for the consultative norm system to be used at company level;
- Abolition of the possibility of granting exemption from the statutory norms regarding working hours and rest periods at the request of both parties to a collective agreement;
- Incorporation into law, as a separate policy norm, of employers' existing obligation to consider the personal circumstances of employees;
- Extension of the current obligation for employers to provide information to the Works Council, with an additional requirement that explicit attention be paid to the policy on working hours and rest periods;
- Provision of an opportunity for Works Councils or employee representative bodies to inspect the contents of the company's compulsory register of working hours.

The SER is in favour of the first two proposals. The first allows for more possibilities and greater clarity in reaching agreement at company level, enabling divergence from the standard norm to be agreed in direct consultations between the employer and the employee representative body.

The second proposal also offers greater clarity. The SER believes that the abolition of this provision is a sensible step towards improving clarity for those involved and reducing the ambiguity of the regulations.

The SER considers the third amendment to be unnecessary and undesirable as it involves no substantive change nor leads to any clarification or improvement.

The proposed addition in the fourth amendment is also considered unnecessary: the obligation to provide information stipulated in the Works Councils Act already encompasses the obligation proposed by the Minister. However, the SER does consider that the obligations on the employer can be clarified by replacing the concept of "working hours regulation" in the Works Councils Act with the concept of "regulation on working hours and rest periods" used in the Working Hours Act.

The SER also considers the fifth proposed amendment unnecessary, in accordance with the committee's opinion that the Works Council and the employee representative bodies already have sufficient opportunity to obtain all necessary information relating to working hours and rest periods.