

Circular 25/2006

November, 2006

Chief Executive Officer  
Non-Commercial State Sponsored Bodies

Chief Executive Officer  
Food Safety Promotion Board

Chief Executive Officer  
Health Service Executive

### **Revised Term Time Scheme 2006**

Dear Chief Executive Officer,

1. This circular supersedes Circular 7/2006 to extend the term time scheme to include unpaid special leave for a continuous eight week period also. I am directed by the Tánaiste and Minister for Health and Children to refer to the "Term Time Scheme" which has been in operation in the civil service. As you are aware, the scheme has been extended to all civil servants represented by the staff side of General Council and it has now been decided that the scheme may be extended to the staff of non-commercial State sponsored bodies (including North/South bodies).

Term Time leave allows working parents<sup>1</sup> or primary carers to match their working arrangements to the main summer holidays of their children, or to care for a person who resides with them and who has a disability which gives rise to the need for care on a continuing or frequent basis. Under the terms of the scheme, the period of special leave is available as a continuous period of thirteen weeks, ten weeks or eight weeks during the period starting from the beginning of June to the end of August, at the discretion of the organisation. The period of Term Time leave shall be **unpaid special leave** (see paragraph 14).

2. The operation of the scheme is subject to the operating requirements of each organisation<sup>2</sup> not being adversely affected. In this regard where there are a number of applications from a particular work area it may be necessary to limit the number of participants in the scheme from that area. The approval of applications may also be determined by the ability of a body to obtain replacement staff by way of temporary recruitment or the granting of higher duty allowances (see paragraphs 23 and 24) to cover the absence of a person on Term Time leave.

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<sup>1</sup> The term "working parents" also includes persons acting in loco parentis.

<sup>2</sup> For "organisation" read "Organisation, State body, Agency or North/South body" throughout this letter

## **Eligibility for participation in the Term Time Scheme**

3. To be eligible for participation in the Term Time scheme, a person must:

(a) be serving in the organisation in a permanent position (full-time staff, worksharers and other part-time staff are eligible to apply); and

(b) have one or more pre-school children or children attending primary, post primary, second level vocational education or a special school and aged eighteen years or younger by 1 June in the year in which it is intended to participate in the scheme;  
or

(c) be the primary carer for the period of the Term Time leave of a person who resides with them and who has a disability which gives rise to the need for care on a continuing or frequent basis.<sup>3</sup>

## **Staff on probation**

4. Staff on probation or on a one year assessment contract following appointment should normally be required to work at least 50% of the time of a full-time officer, in order to ensure the validity and effectiveness of the assessment process. The probation period should be extended in cases where an officer is unable to meet this requirement because he or she has availed of Term Time leave.

## **Annual leave and public holidays**

5. Subject to the provisions of the Organisation of Working Time Act, the annual leave allocation of a participant should be reduced to take account of the period of special unpaid leave.

6. The Organisation of Working Time Act provides that an employee who works at least 1,365 hours in a leave year is entitled to an annual leave allowance of 4 working weeks (20 days). In calculating how many days holidays an employee may be entitled under the Act, employers should include all hours worked including overtime, time spent on maternity (excluding unpaid maternity and adoptive leave), adoptive or parental leave as well as holidays and public holidays taken during the calculation period.

7. **Annual Leave - Full Time Staff** : Staff serving in a full time capacity who avail of thirteen, ten or eight weeks Term Time leave will, **in the absence of any other additional unpaid leave**, be entitled to a minimum of 20 days annual leave. Staff who normally have an annual leave allowance in excess of 20 days will have their allowance reduced on a pro-rata basis, subject the statutory minimum of 20 days. See examples in appendix A.

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<sup>3</sup> The Carer's Leave Act, 2001 gives statutory entitlement to employees to avail of unpaid leave to look after a person who is in need of full-time care and attention. Staff may wish to consider availing of Carer's Leave instead of Term Time leave.

8. **Annual Leave - Worksharing Staff** - Worksharers who avail of Term Time leave will also have their annual leave entitlement calculated in accordance with the provisions of the Organisation of Working Time Act, 1997. See examples in appendix A.

9. **Public Holidays - Full Time Staff** - The entitlement of participants to the benefit of any public holidays falling within the period of Term Time leave is determined by the provisions of the Organisation of Working Time Act. An employee who has not been absent for more than 13 weeks prior to the public holiday is entitled to benefit from the public holiday. The employer shall determine which of the following a fulltime employee is entitled to:

- a) a paid day off within a month of that day
- b) an additional day of annual leave
- c) an additional day's pay

10. **Public Holidays - Worksharing Staff** - For worksharing staff who participate in the Term Time scheme, the employer shall determine in accordance with the Organisation of Working Time Act which of the following an employee is entitled to:

- a) 1/5 of their weekly total of hours off within one month
- b) 1/5 of their weekly total of hours to be added to their annual leave
- c) 1/5 of their weekly pay (equal to 1/10 of their fortnightly pay)

### **Restriction on taking leave**

11. The starting date for Term Time leave will be considered by local management in the light of the need to train replacement staff. Subject to the discretion of management, participants will not be granted leave (paid or unpaid) in the four weeks immediately prior to and following the period of Term Time leave. This restriction will not apply to leave the granting of which is governed by statute, such as maternity, adoptive, parental or carer's leave.

12. Staff who commence maternity or adoptive leave during Term Time leave retain their normal statutory entitlements.

13. The granting of sick leave in the four weeks immediately prior to and following the period of Term Time leave will remain subject to the normal rules.

### **Arrangements for the payment of salary**

14. As stated in paragraph 1, the period of Term Time leave is **unpaid special leave**. Applicants who participate in the scheme will not be paid for the eight, ten or thirteen week period of special leave. However, those participating in the scheme may apply for special administrative arrangements for the payment of part of basic salary during the period of Term Time. **There may be some variations between salary payments in different periods of the year but every effort should be made to ensure equal payments of basic salary.**

Officers availing of the scheme should be required to note that, under PRSI rules a person availing of Term Time is not earning during the period of leave and is not therefore making PRSI contributions<sup>4</sup>. If a person availing of these special administrative provisions in respect of pay takes other unpaid leave during the twelve month period, then the pro rata rate of salary will be adjusted accordingly. **Each participant is required to give an undertaking that any overpayment that may arise from their participation in the scheme will be repaid to the organisation not later than the last day of the tax year, 31 December, unless otherwise agreed.**

**15. It is the responsibility of the person availing of the Term Time scheme to make arrangements to ensure that any voluntary contributions (e.g. health insurance, savings plans, etc.) normally deducted from salary continue to be paid.**

### **Social Welfare - Family Income Supplement**

16. Persons in receipt of Family Income Supplement who intend to avail of Term Time leave must contact the Department of Social, Community & Family Affairs to clarify their entitlements.

### **Reckonable service**

17. The period of Term Time leave will reckon for the purposes of increments and seniority. **The period of Term Time leave will not reckon for pension purposes.**

### **Sick Leave**

18. Participants may not avail of sick leave during the period of Term Time leave.

### **Restriction on Career Breaks**

19. A person participating in the scheme who avails of administrative arrangements for the payment of salary over twelve months may not take a career break in the same tax year in which he or she participates in the Term Time scheme.

20. However, in exceptional circumstances, at the discretion of the organisation, a career break may be granted in the same tax year in which a person avails of the Term Time scheme. Any overpayment which may have arisen from their participation in the Term Time scheme would have to be repaid to the organisation prior to the

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<sup>4</sup> A person paying Class A PRSI requires 39 insured weeks in the relevant tax year to qualify for benefits. The relevant tax year for a PRSI claim is the last complete tax year before the start of the Benefit Year. (The Benefit Year starts on the first Monday in January). Staff availing of Term Time leave should contact the Department of Social, Community and Family Affairs to clarify their individual position.

commencement of the career break.

## **Promotion**

21. Participants in the scheme will continue to be eligible for promotion while on Term Time leave, subject to their meeting the usual eligibility criteria. Participants in the scheme who attend for interview, or who sit examinations as part of internal promotion competitions, during normal working hours or on Saturdays, while on Term Time leave, will receive leave in lieu. An offer of promotion made to a participant during the period of Term Time leave may, in certain circumstances, be conditional on the person resuming duty in the higher grade with immediate effect.

## **Filling of ensuing vacancies**

22. It is important that the absence of staff on Term Time leave does not place an undue burden on the staff remaining in the workplace. Organisations should seek to fill full time or worksharing vacancies through the arrangements set out in the following paragraphs.

23. Generally, vacancies arising from participation in the scheme will be filled by:

- a) the granting of higher duty allowances, in the case of staff above clerical level or the basic recruitment level in technical and professional grades;
- b) the use of temporary replacement staff (full-time or part-time);
- c) the recruitment of permanent staff where appropriate, at clerical level or the basic recruitment level in technical and professional grades.

24. Where higher duty allowances are required, the criteria for selection of staff for acting-up assignments are a matter to be determined by individual organisations. Where organisations are unable to avail of acting-up assignments, they may recruit temporary staff to replace staff participating in the scheme.

25. The recruitment of staff on a temporary basis to replace staff participating in the Term Time scheme should be in accordance with such agreed procedures that may exist with the relevant staff unions from time to time.

26. Recruitment under the above arrangements must be carried out on the basis that organisations remain within their agreed whole time equivalent staff complement and that permanent replacement staff can be absorbed within that complement when the person participating in the Term Time scheme returns to duty. Temporary staff should not be retained for a period greater than 12 months. While it is permissible to recruit the same people on a temporary contract for a specified period every year, a person employed on a temporary contract can have no expectation that that contract will be renewed, even if a number of renewals have been given. In the case of retired public servants appointed as temporary replacement staff, pension abatement arrangements, as appropriate, should apply. Where retired public servants who availed of voluntary early retirement arrangements are appointed as temporary replacement staff, special arrangements, as appropriate, will apply and the prior approval of this Department should be obtained.

27. Where staff return from a career break for educational purposes to fill a vacancy arising under the Term Time scheme, such service will be regarded as a temporary suspension of their career break and will reckon for purposes of seniority, increment and superannuation purposes. The return of staff in such circumstances will be on a voluntary and short term basis. An officer returning in such circumstances will return at the grade at which he or she was serving prior to the commencement of the career break.

### **Applications**

28. Each organisation should inform staff as to whom applications should be addressed and of the closing date for receipt of applications. An organisation shall reserve the right to refuse some or all of the applications to participate in the scheme.

29. Persons applying to participate in the scheme will be required to state whether they wish to avail of a period of thirteen, ten or eight weeks special leave. **Applicants who are accepted for participation in the scheme will be required to confirm, in writing, that they wish to avail of either the full thirteen, ten or eight weeks special leave without pay. It will not be possible for a participant to withdraw or to alter an application for the scheme once that undertaking has been given.** This commitment is essential to allow time for putting into place the special salary arrangements and the appointment of replacements. An offer of participation must be accepted within ten working days of the offer being made to a person. Failure to do so will be considered as a refusal, and the offer will pass to another person.

30. Persons wishing to avail of Term Time leave must apply each year to participate in the scheme. Accordingly, a person who avails of Term Time leave in one year should reapply the following year if he or she wishes to avail of a further period of Term Time leave. It is a matter for each organisation to decide, where numbers are limited, to give priority to staff who did not previously avail of Term Time leave.

### **Queries**

Any queries regarding the *contents* of this circular should be referred in writing to

Ms. Fiona Keane, National HR and Workforce Planning, Department of Health and Children, Hawkins House, Dublin 2. Tel. (01) 635 3094.

E-mail: [fiona\\_keane@health.irlgov.ie](mailto:fiona_keane@health.irlgov.ie)

Personal enquiries from individual officers should be referred to the officer's own organisation.

Yours sincerely,

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Sorcha Murray  
Assistant Principal  
National HR and Workforce Planning

## *Appendix A*

### *Annual Leave Calculations for Staff availing of Term Time Leave*

#### *Annual Leave - Full Time Staff*

(1) a person who has 26 days annual leave and avails of thirteen weeks Term Time leave, would have their annual leave entitlement reduced by 25% or 6.25 days to reflect the period of term time leave. As the pro rata reduction would leave the person with less than 20 days, the person is entitled to the statutory minimum of 20 days.

(2) a person who has 29 days annual leave and avails of thirteen weeks Term Time leave, would have their annual leave entitlement reduced by 25% or 7.25 days to reflect the period of Term Time leave. Their annual leave entitlement would be 22 days.

#### *Annual Leave - Worksharers.*

The Organisation of Working Time Act provides that from 1 April, 1999, depending on time worked, the holiday entitlement of an employee should be calculated by one of the following methods, whichever is the more favourable<sup>5</sup>:-

(a) 4 working weeks in a leave year in which the employee works at least 1,365 hours<sup>6</sup> (unless it is a leave year in which he or she changes employment);

(b) one third of a working week per calendar month that the employee works at least 117 hours;

(c) 8% of the hours an employee works in a leave year (but subject to a maximum of 4 working weeks);

(d) pro-rata the holiday entitlement of an equivalent full-time employee in that grade.

In calculating the number of days' holidays to which an employee is entitled pursuant to the Act, employers should include all hours worked including overtime, rostered time spent on maternity, parental or adoptive leave as well as holidays and public holidays taken during the calculation period. Unpaid leave is not counted in calculating statutory minimum holiday entitlement. It should be noted that parental leave is counted but that the eight weeks additional unpaid maternity or adoptive leave is not counted.

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<sup>5</sup> Where the proportionate leave includes part of a day, the fraction (if it is not an exact one half) may be rounded up to the next half or whole day as appropriate'.

<sup>6</sup>Generally whole-time staff normally work 1,813 net hours annually (viz 34.75 net hours per week x 52.18 weeks)

## **Worksharing staff availing of Term Time leave**

### **Example 1 -**

#### **Officer in a grade which normally carries 20 days leave entitlement - Worksharer - 4 day week pattern - avails of 10 weeks Term Time**

1 day = 6.95 hours, 1 week = 27.8 hours (6.95 x 4)

Annual hours = 1172.6 hours (27.8 hours x 42.18 weeks)

1172.6 hours is 64.68% of the annual hours of a full-time person (1813 hours)

Option A - does not apply in this case because the person works less than 1,365 hours per year.

Option B<sup>7</sup> - for the purposes of this example there are eight months in which a 4 day week person availing of Term Time may work more than 117 hours in the month. 1/3 of a week = 9.27 hours x 8 = 74.16 hours per year.  $74.16 \div 6.95 = 10.67$  days leave.

Option C - 8% of 1172.6 hours (total annual hours) = 93.8 hours  $\div 6.95 = 13.49$  days (rounded up to 13.5 days).

Option D - pro rata a full-time person. 20 days x 64.68% = 12.93 days.

Option C gives the most favourable outcome - person entitled to 13.5 days annual leave.

### **Example 2 -**

#### **Officer in a grade which normally carries 20 days leave entitlement Worksharer - 4 day week pattern - avails of 13 weeks Term Time**

1 day = 6.95 hours, 1 week = 27.8 hours (6.95 x 4)

Annual hours = 1089.2 hours (27.8 hours x 39.18 weeks)

1089.2 hours is 60.07% of the annual hours of a full-time person

Option A - does not apply in this case because the person works less than 1,365 hours per year.

Option B - for the purposes of this example there are eight months in which a 4 day week person availing of Term Time may work more than 117 hours in the month. 1/3 of a week = 9.27 hours x 8 months = 74.16 hours per year.  $74.16 \div 6.95 = 10.67$  days leave.

Option C - 8% of 1089.2 hours (total annual hours) = 87.14 hours  $\div 6.95 = 12.54$  days leave (rounded up to 13 days).

Option D - pro rata a full-time person. 20 days x 60.07% = 12.01 days

Option C gives the most favourable outcome - person entitled to 13 days annual leave.

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<sup>7</sup> A worksharer would need to work the equivalent of 17 full days in a month (17x 6.95 = 118.15 hours) to cross the threshold of 117 hours specified in option B).

**Example 3 -**

**Officer in a grade which normally carries 29 days leave entitlement -  
Worksharer - 4 day week pattern - avails of 10 weeks Term Time**

1 day = 6.95 hours, 1 week = 27.8 hours (6.95 x 4),

Annual hours = 1172.6 hours (27.8 hours x 42.18 weeks)

1172.6 hours is 64.68% of the annual hours of a full-time person 1 day = 6.95 hours

Option A - does not apply in this case because the person works less than 1,365 hours per year.

Option B - in 2002 there are eight months in which a 4 day week person availing of Term Time may work more than 117 hours in the month.  $1/3$  of a week = 9.27 hours x 8 = 74.16 hours per year.  $74.16 \div 6.95 = 10.67$  days leave.

Option C - 8% of 1172.6 hours (total annual hours) = 93.8 hours  $\div$  6.95 = 13.49 days.

Option D - pro rata a full-time person. 29 days x 64.68% = 18.76 days (rounded up to 19 days).

Option D gives the most favourable outcome - person entitled to 19 days annual leave.

**Example 4 -**

**Officer in a grade which normally carries 29 days leave entitlement -  
Worksharer - 3 day week pattern - avails of 13 weeks Term Time**

1 day = 6.95 hours, 1 week = 20.85 hours (6.95 x 3)

Annual hours = 816.9 hours (20.85 hours x 39.18 weeks)

816.9 hours is 45.06% of the annual hours of a full-time person

Option A - does not apply in this case because the person works less than 1,365 hours per year.

Option B - does not apply in this case because a person working a 3 day week pattern works less than 117 hours per month.

Option C - 8% of 816.9 hours (total annual hours) = 65.35 hours  $\div$  6.95 = 9.4 days.

Option D - pro rata a full-time person. 29 days x 45.06% = 13.07 days (rounded up to 13.5 days).

Option D gives the most favourable outcome - person entitled to 13.5 days annual leave.

## **Appendix B**

The suggested annual cycle for the Term Time scheme is as follows:

- (i) Advertising of scheme within Organisations in October; closing date for receipt of applications to be determined by organisation;
- (ii) Organisations convey decision to term time applicants by end November;
- (iii) Organisations identify recruitment needs in January/February;
- (iv) Recruitment of replacement staff - February - April;
- (ix) Term Time leave commences beginning of June.