



Circular 20/2004

26 March 2004

Regional Chief Executive
Eastern Regional Health Authority

Chief Executive Officer
Each Health Board



DEPARTMENT
OF HEALTH AND
CHILDREN
AN ROINN
SLAINTE AGUS LEANA

Quality and Fairness
A Health System for All

Re: Tobacco Control – Smoke-Free Workplace Initiative

I refer to the attached letter of 25th March 2004, from the HSEA to IMPACT, the contents of which have now been agreed by IMPACT.

The sanction of the Minister for Health and Children can be assumed for the implementation of the agreement set out in the HSEA letter. Funding arrangements in respect of overtime payments are as set out in the Departments circular letter dated 24 March 2004 (copy of which is also attached).

Any queries in relation to the above should be addressed to the Health Service Employers Agency, 63-64 Adelaide Road, Dublin 2, Tel: 6626966.

Yours sincerely


William Beausang

Principal Officer
Personnel Management and Development



25th March 2004

Mr. Kevin Callinan
National Secretary
Health and Welfare Division
IMPACT
Nerneys Court
Dublin 1.

Health Service
Employers Agency

63-64 Adelaide Road
Dublin 2

Tel: 01 662 6966

Fax: 01 662 6977

email: info@hsea.ie

RE: Tobacco Regulations

Dear Mr. Callinan

I refer to your letter of 23rd March and previous correspondence and our meetings in this matter.

I wish to reiterate that management is strongly committed to continuing to work with IMPACT in addressing issues which are of concern in relation to operating the new tobacco control regulations. I am happy therefore to provide the following clarifications for your members.

Work Planning

As you will be aware, there have been ongoing discussions at the National Implementation Group during the course of which there was general agreement that there should be an initial focus on compliance building with EHOs being primarily involved in ensuring co-operation with the new arrangements. However, this is not to suggest that no prosecutions should take place where there is clear evidence of an unwillingness to comply with the law or where Health Board staff are being obstructed. In regard to the hospitality industry in particular it is important that there be a visible presence of enforcement staff after normal working hours as appropriate to promote compliance, ensure enforcement and to respond to complaints.

During the initial phase of the workplace smoking ban it is envisaged that the designated tobacco control staff will be engaged in ensuring compliance within the hospitality sector. In this they would be supported by the general pool of environmental health staff who would be expected to promote compliance in conjunction with food control inspections. These arrangements will, in the first instance, be influenced by the appointment of the dedicated EHOs on tobacco compliance and associated duties in addition to the capacity of environmental health staff to fully discharge their food control responsibilities.

Obviously, it is not possible at this stage in advance of the introduction of the ban to predict the full workload arising for EHOs both at the initial phase and on an ongoing basis from the introduction of the new regulations. However, management anticipates and indeed has planned accordingly through the allocation of additional funding resources to health boards that the workload arising from the introduction of the ban – entailing compliance-building, the need to manage and respond to complaints and to

take enforcement measures necessary - will certainly give rise to the need for work assignments on an overtime basis by environmental health staff in each health board.

The joint Union / Management group referred to below will play a key role in monitoring and assessing the situation closely on an ongoing basis and responding accordingly in relation to such matters as resources and out of hours working in order to ensure the successful implementation of the new regulations.

Out of Hours Arrangements

I wish to confirm that as stated in my letter of 25th February the management position is that Environmental Health Officers (EHOs) may express an option for overtime payments or time in lieu for relevant tobacco control work outside 9am to 5pm, Monday to Friday . The overtime scheme and rates will correspond to those of the clerical/administrative Grade 5, details as follows:

- | | |
|------------------------------|-------------|
| • First 3 hours in week | Time plus ¼ |
| • Next 5 hours | Time plus ½ |
| • Thereafter | Double time |
| • Saturday(less than 10 hrs) | Time plus ½ |
| • Saturday(more than 10 hrs) | Double time |
| • Sunday/Public Holiday | Double time |

Resources

As stated in my letter of 25th February and highlighted at our meetings management has prioritised the filling of all forty-one EHO posts dedicated to tobacco control measures. Indeed progress in this area was acknowledged by your union at our meeting on 30th January 2004. Ensuring that all Tobacco Control Posts are filled remains a top priority for the Minister in the context of the effective implementation of the new regulations. In this regard, the Department of Health and Children is currently establishing the up-to-date position concerning the timeframe for filling all posts and this information will be communicated as soon as it is available.

As referred to above, it is agreed that the matter of resources and out of hours working will be closely monitored, on an ongoing basis in particular during the initial phase of implementation of the workplace smoking ban.

It is suggested that the composition of the Joint Union/Management forum to monitor these issues comprises three union and three management representatives. Your thoughts on same and nominees would be welcome.

Motor Insurance

Management has agreed to amend the initial proposal as set out in our letter of 25th February 2004 regarding recouping additional insurance premium for the use of a private car for health board purposes, as follows:

- Written evidence, enclosing necessary receipts, must be presented.

- Written evidence must be produced of the EHOs carrying fully comprehensive insurance cover.

All of the above arrangements will come into effect on Monday 29th March 2004. Following acceptance by IMPACT a Departmental circular will issue to employing authorities giving effect to these arrangements.

I trust that the foregoing clarifies the position in relation to the matters raised in your recent letter.

Yours sincerely



Brendan Mulligan
Assistant Chief Executive – Industrial Relations

Cc Mr Noel Usher, Director, DoHC
Mr. William Beausang, Principal Officer, DoHC
Mr. Eamonn Corcoran, Principal Officer, DOHC
Ms. Bernie Ryan A/Principal Officer, DoHC

24 March 2004

To Chief Executive Officer
Each Health Board

Re: Tobacco Control- Smoke-Free Workplace Initiative

Dear Chief Executive Officer

I am writing to each Chief Executive Officer in connection with the new statutory arrangements providing for prohibition on smoking in most workplaces which is due to come into force on 29 March next.

In this connection I wish to emphasise that this is probably the most important public health measure that can be taken to improve the health of our citizens and I know that the Health Boards can be relied on to provide a strong leadership role to ensure that the new measures operate successfully from the outset.

There are a number of points that I would like to draw specific attention to as follows:-

There have been ongoing discussions at the National Implementation Group during the course of which there was general agreement that there should be an initial focus on compliance building with EHOs being primarily involved in ensuring co-operation with the new arrangements. This seems to me to be an appropriate initial step and I would like to seek your co-operation in ensuring a standardised approach in this area; however, this is not to suggest that no prosecutions should take place where there is clear evidence of an unwillingness to comply with the law or where Health Board staff are being obstructed.

In regard to the hospitality industry in particular, it is important that there be a visible presence of enforcement staff, as deemed appropriate, after normal office hours to both ensure compliance building, enforcement and to respond to complaints and I know that there are ongoing talks involving IMPACT and the HSEA with a view to resolving issues that have arisen. In order to ensure that there is a dedicated funding line to allow for the payment of overtime, €35,000 is being made available to each Health Board for the payment of overtime: in addition, there is already a sum of €51,000 allocated to each Health Board for the appointment of a Director of Tobacco Control: pending the filling of these posts I am suggesting that this funding should also be allocated for any necessary overtime payments.

You may wish to note that a Memorandum of Understanding has recently been concluded between this Department, the Office of Tobacco Control and the Health and Safety Authority which delineates the respective roles and responsibilities of each organisation and I am enclosing a copy of this for your information.

Finally, issues may arise in regard to enforcement in Health Board premises (similar issues have arisen previously in regard to food control); in such cases, I am suggesting that the Department should become actively involved in order to ensure that enforcement is comprehensive and a protocol will issue shortly to the PEHO's in this regard.

Yours sincerely

Noel Usher
Director