



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive

# **GUIDELINES ON TERMS AND CONDITIONS OF EMPLOYMENT**

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**CORPORATE EMPLOYEE RELATIONS SERVICES  
HR DIVISION,  
HEALTH SERVICE EXECUTIVE  
63-64 ADELAIDE ROAD  
DUBLIN 02 FR50**

**TELEPHONE (01) 6626966  
FAX (01) 6626977  
EMAIL [INFO.T@HSE.IE](mailto:INFO.T@HSE.IE)**

The logo for Human Resources features a circular arrangement of colorful human figures holding hands.  
**Human  
Resources**  
Leaders in People Services

The HSE logo, consisting of a stylized 'H' and 'E' with green leaf-like shapes.  
**Building a Better Health Service**  
CARE COMPASSION TRUST LEARNING

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## **Disclaimer**

The HSE Terms and Conditions of Employment guideline is a compendium of the various terms and conditions of employment which currently apply in the HSE. The terms derive from circulars, national agreements and/or legislation and every effort should be made to ensure conformity and consistency of application of the terms and conditions which are set out in the document. In the event of dispute regarding the contents of this guideline, the relevant circular, policy, collective agreement or legislation on which the guideline is based will be the definitive source of reference and its provisions will take precedence.

## SECTION 1 - LEAVE

This section sets out the atypical working arrangements and leave arrangements and payments for such leave that apply in the Health Service Executive. Some leave types may not apply to all employee categories. The following types of atypical working and leave are covered:

- Flexible Working Scheme
- Annual leave
- Public Holidays
- Sickness Absence
- Occupational Illness/Injuries Schemes
- Maternity Leave including Health & Safety Leave
- Adoptive Leave
- Paternity leave
- Parental Leave
- Force Majeure Leave
- Carer's leave
- Special Leave with Pay on Marriage
- Compassionate Leave
- Jury Service
- Career Breaks
- Study Leave
- Special Leave with Nominal Pay
- Leave for Deployment with the Rapid Response Corps
- Reserve Defence Forces
- Special Leave with Pay to Volunteers in Exceptional Circumstances
- Leave for Trade Union Representatives
- Leave for elected members of local authorities
- Other Types of Leave
- Shorter Working Year Scheme



## **Flexible Working Scheme**

A scheme of flexible working which allows employees to work less than whole time hours and receive entitlements on a pro rata basis applies in the health service as set out in the Agreement on Flexible Working in the Health Service (2001).

This scheme is subject to the overriding requirement that there should be no adverse impact on service delivery. When considering applications for working reduced hours, managers must assess whether the applicant can be facilitated having regard to patterns of work and an assessment of the capacity of the service to maintain required operational levels having regard to overall service requirements.

As the employee's terms and conditions are based on their contractual hours as set out in his/her contract of employment, it is important to ensure that the weekly hours specified in the contract reflect the actual patterns of attendance. Where this is not the case, contracts should be reviewed and amended accordingly.

For clarity of reference, part time and atypical working is referred to as part time working throughout this document.

## **Annual Leave**

The Organisation of Working Time Act, 1997-2015 sets out statutory entitlements for employees in respect of annual leave and public holidays. All health service employees are covered by the Act.

### **Qualifying Conditions for the Accrual of Annual Leave**

There is no qualifying period or hourly threshold for entitlement to annual leave. This means that all employees, regardless of the number of hours they work a week, start to accrue an entitlement to annual leave from the commencement date of their employment.

Entitlement to annual leave is based on the number of hours worked in the leave year. The Act defines 'working time' as any time an employee is:

- At his or her place of work or at his or her employer's disposal, and
- Carrying on or performing the activities or duties of his or her work.

When calculating an employee's annual leave entitlement, employers should include time spent on maternity leave, additional maternity leave, adoptive leave, additional adoptive leave, paternity leave, parental leave, and the first 13 weeks of carer's leave, annual leave, certified sick leave and public holidays taken during the calculation period.

## **Calculating Annual Leave Entitlement**

The Act sets out three mechanisms for earning a statutory entitlement to annual leave. Employees are entitled to whichever one of the following is the greater:

- Employees who work at least 1,365 hours in the leave year are entitled to the full statutory leave entitlement of four working weeks (unless it is a leave year in which s/he changes employment).
- If an employee does not work at least 1,365 hours in the leave year, s/he is entitled to one-third of a working week per calendar month that s/he works at least 117 hours.
- If an employee works less than 117 hours, s/he is entitled to 8% of the hours worked in the leave year, subject to a maximum of four working weeks. (This is the mechanism normally used for calculating the annual leave entitlement for part-time employees).

The 'working week' refers to the number of days or hours that the employee normally works in a week. For example, if an employee works four days a week (and exceeds the 1,365 hours threshold), then his/her holiday entitlement to four weeks' leave is equivalent to 16 days' leave i.e. (4x 4 days). If an employee works five days a week, then his/her entitlement to four weeks' leave is equivalent to 20 days' leave.

Where an employee commences employment or terminates his/her employment during the leave year, annual leave entitlement is calculated on a pro rata basis.

## **Annual leave in the HSE**

The majority of health service employees receive annual leave entitlements that are greater than the statutory minimum provided for under the Organisation of Working Time Act.

HSE HR Circulars 11/2012 (existing employees) and 006/2014 (new beneficiaries) provide for the following limits:

- A minimum annual leave allowance of 22 days annual leave and a maximum annual leave allowance of 32 days for existing employees and 30 days for new entrants and promotes<sup>1</sup>.
- The assimilation of privilege / closure days, where applicable, into the annual leave allowance of existing employees and new beneficiaries subject to the limits listed above.
- The abolition of festival days and race days.

Further detail is set out in aforementioned Circulars.

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<sup>1</sup> New entrant is defined in HSE HR Circular 6/2014 as new recruits and staff promoted to the HSE on or after 1 April 2012.

### Computation of a Day's Annual Leave

In the case of employees who have varying weekly hours of attendance or who work shifts of varying lengths, the standard practice in the health service is to convert their annual leave entitlement into hours. This is calculated by dividing the normal weekly working hours for the grade by 5, and multiplying this figure by the annual leave entitlement for the grade.

*e.g. an employee who works a 39 hour week is entitled to 187.2 hours per annum, i.e. 24 (days) x 7.8 (hours) = 187.2*

Each time an employee takes annual leave, the number of hours s/he would normally have been rostered to work on the day(s) taken should be aggregated to determine the amount of annual leave taken.

*e.g. an employee who takes annual leave on a day he/she would normally have been rostered to work a 12 hour shift should be deducted 12 hours from his/her annual leave entitlement.*

### Accrual of Annual Leave for Part-Time Employees

Part-time employees accrue an entitlement to annual leave on a pro rata basis to their whole-time-equivalent.

#### Table 1

Formula for calculating pro-rata Annual Leave Entitlements of part-time employees who work fixed working hours

<b>Example:</b> Employee who works 20 hours per week where WTE works 37 hours per week and receives 24 days annual leave per annum			
<u>Hours worked by Part-Time Employee</u>	X	<u>Annual Leave of WTE in hours</u>	
Hours worked by WTE			
20	X	24 (AL days) x 7.4 (daily hours)	
37			
0.54	X	177.6 = 95.9 eligible for 96 hrs	
⇒ Employee is eligible for 96 hours annual leave per annum			

#### Table 2

Formula for calculating pro-rata Annual Leave Entitlements of part-time employees who work varying hours on an "if and when required" basis

**Example:** Part-time employee who works varying hours on an 'if and when required' basis where Whole Time Equivalent (WTE) works 39 hours per week and receives 24 days annual leave per annum, will receive pro-rata entitlement to the WTE based on a percentage figure which is calculated using the formula below

$$\frac{\text{Number of Annual Leave Days of the WTE Expressed in Hours}}{\text{Number of standard weekly working hours of the WTE x 52 weeks}} \times 100$$

$\frac{187.2 \text{ (24 AL days x 7.8 hours (1/5 of standard working week))}}{2028 \text{ (39 (standard WTE weekly working hours) x 52 weeks)}} \times 100$

$.092$   
 $= 9.2\%$   $\times 100$

⇒ Annual leave entitlement of part-time employee is 9.2% of the hours which s/he works.

### Overtime

Hours worked on an overtime basis should not be reckoned in the calculation of the annual leave entitlement or the payment for annual leave **except** in cases where the employee falls short of the **minimum entitlement** as set out by the Organisation of Working Time Act 1997.

In the health service part-time employees who work additional hours in excess of their contracted hours will be entitled to accrue annual leave in respect of the additional hours worked up to a maximum of the annual leave entitlement for the whole time equivalent grade (HSE HR Circular 001/2012). In situations where part-time employees are required to work beyond their contracted hours on a regular rostered basis over a significant period of time it may be more appropriate to review the employee's contracted hours if this requirement is likely to continue.

### Timing of Annual Leave

The time at which annual leave is taken is at the discretion of the employer, having regard to service requirements and subject to the employee's needs to reconcile work and family responsibilities, and his/her opportunities for rest and recreation.

An employee who has worked eight or more months in a leave year is entitled to an unbroken period of two weeks' leave, which may include one or more public holidays.

The onus is on the employer to ensure that employees avail of their annual leave entitlement in the leave year to which it relates. In exceptional circumstances, due to service requirements, annual leave may be carried forward into the first six months of the next annual leave year, provided the employee agrees to defer his/her leave.

### Illness during Annual Leave

Where an employee falls ill during a period of annual leave and submits a medical certificate from a registered medical practitioner, the period covered by the certificate is regarded as sick leave and annual leave entitlement is restored.

### Accrual of Annual Leave during Sick Leave

HSE HR Circular 08/2012 sets out the arrangements for the accrual and carryover of annual leave during paid sick leave in the health sector. In addition to the arrangements set out in HSE HR Circular 08/2012 the

statutory annual leave entitlement applies to periods of unpaid certified sick leave and periods during which the employee is in receipt of Temporary Rehabilitation Remuneration (TRR) and the Injury Grant (subject to receipt of medical certification). These arrangements are set out in ERAS Memo 003/2015.

### **Annual Leave and Termination of Employment**

The Organisation of Working Time Act (1997) prohibits payment in lieu of annual leave except in circumstances where the employee's contract of employment is being terminated.

### **Pay during Annual Leave**

Payment during annual leave includes any regular premium or allowance normally paid to the employee and includes *regular and rostered* overtime. Examples of payments currently included are: Saturday, Sunday, night duty, twilight payment, and public holidays.

**Note** Premium payments for holiday pay purposes are based on an average of premium earnings (exclusive of overtime), calculated over the 12 month period preceding the annual leave year in which annual leave is being granted. This payment is normally made on a designated date or dates as agreed at each location.

C.f. [Department of Health Circular No. S100/412](#)

### **Calculating Holiday Premium Pay**

To calculate holiday premium the total premium pay received by the employee should be divided by the number of contracted hours worked by the employee in a year (this gives the average premium earnings per hour) and multiplied by the number of annual leave days in hours that the employee is entitled to.

To ensure maximum compliance with the Organisation of Working Time Act, 1997 it is recommended that the leave year for which holiday pay is being granted/paid should be the same leave year used for calculating average premium pay earnings.

For example, a health care assistant who is contracted to work 39 hours per week and has an annual leave entitlement of 24 days would be entitled to the following:

Total premium earnings:	€7,500
Total annual contracted hours	2,028 (39 x 52)
Annual leave entitlement in hours (April 2015 to March 2016)	187.2 (24 x 7.8)
$(7,500 / 2,028) * 187.2$	= €692.13
	premium paid in 2013

An exception to this arrangement is Non Consultant Hospital Doctors who have their annual leave paid on the basis of their average approved rostered

hours over a reference period of 13 weeks (please refer to the 2010 NCHD Contract for further details).

## Public Holidays

The Organisation of Working Time Act provides for nine public holidays as follows:

- Christmas Day
- St Stephen's Day
- St Patrick's Day
- Easter Monday
- The first Monday in May
- The first Monday in June
- The first Monday in August
- The last Monday in October
- The first of January

An employee's entitlement in respect of each public holiday is as follows:

- a paid day off on the public holiday; or
- a paid day off within a month; or
- an extra day's annual leave; or
- an extra day's pay

*As the employer may decide.*

In the health service employees who work a '5 over 7' roster usually receive nine additional days leave in lieu of their liability to work on public holidays.

### Qualifying Conditions

All permanent and temporary employees who work full-time have an immediate entitlement to public holiday benefits. Employees who work on a casual/part-time basis must have worked at least 40 hours during the 5-week period ending on the day before the public holiday to qualify for the public holiday.

### Employee Absent from Work Prior to a Public Holiday

An employee is not entitled to a public holiday if s/he is absent from work immediately before the public holiday for one of the following reasons:

- Absence in excess of 52 consecutive weeks by reason of an occupational injury<sup>2</sup>
- Absence in excess of 26 consecutive weeks by reason of an illness or injury (not occupational)
- Absences in excess of 13 consecutive weeks caused by a reason not including injury or illness.
- Absence by reason of a strike
- Absences due to carer's leave (after the first 13 weeks of leave have elapsed)
- Absences due to health and safety leave under the Maternity Protection Act 1994 and 2004 i.e. an employee **will not** accrue an

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<sup>2</sup> An Injury sustained by the employee in an occupational accident within the meaning of the Social Welfare (Consolidation) Act.

entitlement to the public holiday which occurred during the period of Health and Safety Leave.

### **Payment and Compensation for Public Holidays**

Payment for public holidays is governed by the Organisation of Working Time (Determination of Pay for Holidays) Regulations, 1997. Payment in respect of a public holiday includes any regular bonus or allowance normally paid to the employee but excludes payment for overtime. Additionally many employees in the health service receive premium payments in excess of the statutory requirements.

Public holiday entitlements are implemented as follows:

#### ***A) Employees who work or who are normally required to work on the day on which the public holiday falls***

An employee who normally works on the day on which the public holiday falls but has the day off by virtue of the fact that it is a public holiday is entitled to his/her normal day's pay.

An employee who works a '5 over 7' roster and is scheduled to work on the day on which the public holiday falls is entitled to payment for hours worked plus single time extra for each of those hours. S/he is also entitled to an additional day's annual leave or an additional day's pay based on 1/5 of his/her standard working week in respect of his/her statutory entitlement for the public holiday.

An employee who works a '5 over 7' roster and whose scheduled day off is the day on which the public holiday falls is entitled to an additional day's leave based on 1/5 of his/her standard working week.

#### ***B) Employees not normally required to work on the day on which the public holiday falls***

An employee who is not normally required to work on the day on which the public holiday falls, (e.g. part-time employees who are rostered to work on particular days only), is entitled one-fifth of his/her normal weekly pay. (Such employees must however have worked 40 hours in the 5 weeks ending on the day before the public holiday to qualify for this entitlement.)

#### ***C) Job-Sharers – Monday to Friday***

Job-sharers who work Monday to Friday and do not work or are not normally required to work on the day on which the public holiday falls are entitled to receive, the appropriate rate in respect of the public holiday that is the amount that is equal to one-tenth of the amount that is paid in respect of the last two weeks of normal working hours worked by the employee before that public holiday.

### **Public Holidays and Sickness Absence**

Health service employees who work a Monday to Friday attendance regime and normally receive a paid day off on the public holiday are covered by the following arrangement: if the public holiday occurs during a period of



medically certified sick leave, the employee will be entitled to a paid day off in lieu of the public holiday following their return to work. The public holiday should be recorded as sick leave and the normal sick pay arrangements will apply (HSE HR Circular 004/2012).

Health service employees who have a liability to work on public holidays (e.g. nurses who work a '5 over 7' roster) but who are ill on the day continue to receive an additional nine days' annual leave in lieu of this liability.

### **Public Holidays and Maternity Leave**

- An employee who is absent on statutory maternity leave, additional maternity leave, adoptive leave, additional adoptive leave, paternity leave or parental leave continues to accrue entitlement to public holidays.
- Payment is based on the number of hours the employee would have worked had the day not been a public holiday.
- In the health service public holiday work is normally defined as any roster which commences between midnight on the eve of the public holiday and midnight on the public holiday.
- Payment in respect of a public holiday includes any regular bonus or allowance normally paid to the employee but excludes payment for overtime.

### **Public Holidays and Termination of Employment**

Where the employment terminates during the week ending on the day before a public holiday and the employee has worked during the 4 weeks preceding that week, the employee is entitled to be paid in respect of that holiday.

e.g. if Christmas Day (25<sup>th</sup> December) falls on a Friday and the employee terminated his/her employment on the previous Friday (18<sup>th</sup> December), or any time within that period, then s/he would still be entitled to payment for the public holiday provided s/he also worked during the four weeks preceding the week commencing the 18<sup>th</sup> December.

## Sickness Absence

In the HSE the granting of sick pay is subject to employees' compliance with the HSE's Managing Attendance Policy (2014). Other relevant policies and procedures include the following:

- Rehabilitation of Employees Back to Work after Illness or Injury ( 2011)
- Long Term Absence Benefit Scheme Guidelines (2012)
- Policy for prevention and management of Stress in the workplace (2012).

### Self Certified Sick Leave

An employee may be granted up to a maximum of 7 days self certified sick leave in a rolling 24 month period (pro rata for part time staff). Self certified leave may not exceed two consecutive working days<sup>3</sup> and a certificate from a registered medical practitioner is required where the sickness absence is longer than two consecutive working days.

Paid sick leave for single or two day absences may be granted where an employee self certifies that they were unfit for duty due to illness. Any period of self-certified sick leave in excess of 7 days in the relevant period will be an unpaid absence from duty.

HSE HR Circular 020/2012 sets out details regarding these arrangements.

### Public Service Sick Leave Regulations

HSE HR Circular 005/2014 and HSE HR Circular 19/2015 (Pregnancy Related Sick Leave) set out the sick leave regulations for the public health service. In addition transitional arrangements apply to serious illnesses which occurred prior to the introduction of the Public Service Sick Pay Scheme (see Employee Relations Advisory Services' memos 30/01/2014 and 18/12/2014).

Key provisions of the scheme are as follows:

### Ordinary Sick Leave Limits

The maximum length of time for which an individual may receive sick pay is as follows;

- 92 calendar days (3 months) on full pay in a rolling 1 year period followed by 91 calendar days (3 months) on half pay subject to
- A maximum of 183 calendar days in a rolling 4 year period

Any period of self-certified sick leave is taken into account for the purpose of calculating the employee's paid sick leave entitlement.

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<sup>3</sup> HSE HR Circular 20/2012.

### **Critical Illness Protocol (CIP)**

When an employee becomes incapacitated as a result of critical illness or injury and has supporting medical evidence for an extended period of sick leave, the individual may, on an exceptional basis, be granted paid sick leave extended as follows:

- 183 calendar days on full pay in a rolling 1 year period followed by 182 days on half pay subject to;
- A maximum of 365 calendar days in a rolling 4 year period.

The granting of exceptional extended paid sick leave is a decision of management having considered the occupational medical advice and will be granted in accordance with the criteria in the Critical Illness Protocol (HSE HR Circular 005/2014 refers). The relevant HSE form for application is HR 113.

### **Protective Year**

Where an employee has taken sick leave because of a critical illness / injury and subsequently suffers from a non-critical illness/injury within a 12 month period, the employee can continue to access the extended sick pay limits normally given for critical illness/injury only (i.e. 365 days paid sick leave).

### **Transitional Arrangement /Serious Illnesses**

The purpose of this transitional arrangement is to give a similar level of protection to employees who had a serious illness or injury under their old sick pay scheme as those who have a critical illness under the current Sick Pay Scheme. Under this arrangement management can use the discretionary provisions to award CIP for the current absence (even when the current illness is not critical) and access to the "Protective Year" in cases where an employee had a very serious illness or injury in the four years prior to the introduction of the Sick Pay Scheme on 31 March 2014. (Note that the cut off date of 30<sup>th</sup> March 2015 was discontinued following the decision to extend the look back period from 12 months to 4 years).

When considering applications for extended sick pay in these circumstances managers should refer to the provisions of the CIP which relate to management discretion.

### **Temporary Rehabilitation Remuneration**

Temporary Rehabilitation Remuneration (TRR) refers to the rate of pay an individual may be awarded if he or she has exhausted paid sick leave. TRR (formerly referred to as 'Pension Rate of Pay' (PRP)) may be paid where;

- (a) The individual concerned has the service required for an ill health retirement pension; and
- (b) There is a reasonable prospect that the individual will be able to return to work and give regular and effective service.

The rate of pay of TRR is the same as the rate of pension that the individual would be paid if they were to retire on grounds of ill-health at that date.

The following limits apply for payment of TRR:

Ordinary sick leave: 547 calendar days on TRR in a rolling 4 year period

Critical illness provisions: 365 calendar days on TRR in a rolling 4 year period with a provision to extend for a further 2 years (730 calendar days) subject to 6 monthly reviews.

The HSE Long Term Absence Benefit Scheme Guidelines (2012) set out the procedures which apply to the payment of TRR (formerly Pension Rate of Pay). The relevant HSE form for application is HR 114 b.

### **Sick Pay for Part-Time Employees and Fixed Term Employees**

Part-time employees will be granted sick pay on a pro-rata basis, based on their standard contracted hours of attendance<sup>4</sup>. Managers must adhere to the principle that all HSE employees should be treated equitably in relation to access to sick pay and therefore the method by which sick leave is recorded and calculated should not result in more preferential arrangements for employees who work atypical or part-time rostering arrangements.

Department of Finance Circular 31/2001 (Appendix III – “Work sharing and sick leave thresholds”) sets out a methodology to achieve pro rata parity between full time staff and part time staff.

In the case of fixed term employees, the entitlement to sick leave should accrue on the basis of 35 days full pay and 35 days half pay per year of service and proportionately less for an incomplete year, up to a maximum of 92 days full pay and 91 days half pay in a four-year period. An employee’s entitlement should be calculated based on the duration of his/her contract.

### **Transitional Provisions**

Where an employee was in receipt of sick pay on the date of the commencement of the new sick leave scheme (31 March 2014), the pre-existing sick leave provisions continue to apply for the duration of that episode of sickness absence. When the employee returns to work any future sickness absence will be dealt with under the terms of the new Public Service Sick Leave Scheme.

### **Pregnancy Related Illness and Sick Pay**

Arrangements governing certified pregnancy related illness and illness occurring following maternity leave are set out in the HSE HR circular 19/2015. This document should be read in conjunction with the Department of Public Expenditure and Reform Guidelines.

### **Sick Pay and Deduction of Department of Social Protection Illness Benefit**

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<sup>4</sup> Contracts of employment should reflect the reality of the employee’s weekly normal commitment.

In the HSE, any illness benefit from the Department of Social Protection (DSP) which the employee is entitled to claim is deducted at source.

Employees are required to claim the DSP illness benefit within the required time limits and comply with all the eligibility conditions laid down by DSP.

Employees who are in receipt of certain types of social welfare payments (e.g. Survivors Pension) must choose to either retain their existing social welfare benefit and forfeit their illness benefit **or** claim illness benefit and forfeit their existing social welfare payment. In accordance with DSP rules, HSE employees who can provide evidence that they have not claimed DSP illness benefit to which they are entitled by reason of their decision to retain their existing social welfare payment, may be exempt from the normal HSE deduction at source.

### **Sickness Absence Recording**

ERA's memo 002/2015 sets out the standardised sickness absence recording arrangements which apply in the HSE. Under these arrangements, rest periods/weekends are only counted for sickness absence purposes when the absence spans the rest period/weekend (i.e. the employee must be absent on sick leave both before and after the rest period/weekend).

## **Occupational Illness/Injuries Schemes**

### **Nurses who are absent due to MRSA**

Nurses who are required to remain absent from work due to MRSA or exposure to MRSA (based on infection control advice) may be granted sick pay as follows:

- Full pay for the first six months of absence
- Three quarters of full pay for the second six months
- Half of full pay for the third six months

C.f. [HSE-EA letter dated 30<sup>th</sup> November 2006](#)

### **Prevention of transmission of Blood Borne Diseases in the health care setting**

All employees taking up a post in the public health service that might involve exposure prone procedure (EPPs) must provide evidence to the occupational health service that they are not infectious for Hepatitis B. In the absence of such evidence the employee will not be employed in a post where the duties involve EPP's.

In circumstances where an employee is identified as being infectious with a blood borne disease the following arrangements apply:

### **Payment to Affected Employees**

Following an initial screening and diagnosis of Hep B, Hep C or HIV and on foot of medical advice being produced that the employee needs to curtail clinical practice and is consequently unable to work, the following pay arrangements would apply:

- Full payment, inclusive of payments accruing for premiums and allowances for a period of six months
- Salary paid in this circumstance will not affect an individual's entitlement under the sick pay scheme.
- During this six month period the employees must comply with the co-operation procedure set out above.

### **First Special Extension**

If it transpires before the end of the six month period as outlined above, that the employee is unlikely to be able to return to work at the end of the sixth month period or immediately thereafter, but there remains a reasonable expectation that the individual may return to work, a first special extension of pay under this scheme may be granted. The arrangements that apply during this period will be the same as outlined above and will be approved by the Head of HR following recommendation from the Occupational Health Department and will not exceed a period of three months.

### **Second Special Extension**

Notwithstanding the above, if it transpires, after medical evidence that a return to work is unlikely during the three month period or immediately thereafter, but there still remains a reasonable expectation that the individual will return to work, a final extension may be granted. This special extension will provide for basic pay only and this special extension will not exceed a period of three months.

### **Application of Injury Grant Scheme**

In exceptional circumstances, at the expiry of the special pay arrangements outlined, the injury grant scheme may be invoked for such period as the employer may consider reasonable following occupational health advice. Any decision to apply the injury grant scheme for such period will be dependent on the employee agreeing to undergo regular medical assessment as may be deemed appropriate.

Further details further details are contained in **HSE HR Circular 012/2009**.

## **Serious Physical Assault Scheme**

Employees who are absent from work as a result of a serious physical assault by a patient/client incurred in the course of their duties are covered by the Serious Physical Assault Scheme (Long Term Absence Benefit Scheme Guidelines (2012)). Payment is conditional on the assault occurring in the actual discharge of the employee's duties, without his / her own default and by some injury attributable solely to the nature of his/her duty.

The scheme provides for full pay (including allowances and premium earnings) for a period of up to

- 6 months for officer grades;
- 3 months for support employees grades;
- Special extensions to the scheme for nurses (3 months at basic pay plus allowances and premium pay and 3 months at basic pay only).

Payment under the Serious Physical Assault Scheme does not affect an employee's entitlement under the sick pay scheme.

In order to be eligible for the scheme the employee must be seriously physically assaulted in the workplace in the course of his/her duty. A serious physical assault is defined in the Long Term Absence Benefit Scheme Guidelines 2012 as:

*“The intentional or reckless application of force against the person by another without lawful justification, or causing another to believe on reasonable grounds that s/he is likely immediately to be subjected to such force without lawful justification, resulting in physical injury.”<sup>5</sup>*

The Long Term Absence Benefit Scheme Guidelines sets out the details relating to the operation of the Scheme. In addition CERS memorandum 26/2016 highlights that medical evidence if available can be used by managers to determine if the employee satisfies the eligibility criteria without having to await the outcome of an Occupational Health Assessment

### **Revised Serious Physical Assault Scheme for Nurses**

Under the Revised Serious Physical Assault Scheme nurses who fall eligible may be granted two further extensions to the scheme. If the nurse does not resume duty during the six month period the line manager/appropriate manager should arrange another appointment with Occupational Health for six weeks prior to the expiration of the six month period. If the outcome of this

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<sup>5</sup> At the time of print (April 2017) the health service trade unions are disputing the HSE's interpretation of this definition.

assessment is that the nurse is not yet fit to resume duty but there remains a reasonable expectation that he/she will return to work than the line manager/appropriate manager may seek a special extension of the pay arrangements outlined above for a period not exceeding 3 months. The application must be approved by the relevant senior / General Manager and if approved the HR/Employee Relations Department must notify the employee. Payroll must also be informed make the necessary pay arrangement.

In line with the provisions of the Serious Physical Assault Scheme the line manager/ appropriate manager must arrange a further appointment with Occupational Health for six weeks prior to the expiration of the first extension period. If Occupational Health assess the employee is still not fit to return to work but there still remains a reasonable expectation that the nurse will return to work than a final extension may be granted. The process for authorising this extension is through the original application channels and if approved the line manager/appropriate manager must notify the nurse and the HR and payroll department. The second extension is for basic pay only and may be granted to for a period not exceeding three months.

Nurses may appeal a decision in relation to eligibility to the benefits of the scheme to an independent Appeals Board under the Revised Serious Physical Assault Scheme. The Appeals Board is comprised of a two adjudicators -a management and union nominee. Applications for appeal must be submitted in writing to the secretariat for the scheme, HSE Corporate Employee Relations Services, 63 – 64 Adelaide Road, Dublin 2. All other grades can appeal a decision through the Grievance Procedure.

Refer to the Long Term Absence Benefit Scheme Guidelines (2012) which include as an appendix the *Revised Serious Physical Assault Scheme for Nurses (2001)* for further details on the operation of the scheme.

## **Hospital Expenses**

Expenses incurred in respect of hospital/medical charges will be recouped as follows:

- a) A refund of expenditure incurred in respect of treatment provided by the Irish Public Health Service.
- b) General Practitioner, Casualty and Consultant visits.
- c) Prescription charges.

Employees must claim under medical insurance where appropriate (e.g. VHI, Drug Refund Schemes etc) in the first instance. Payment will be made solely in respect of any excess expenditure by the employee. Payments under this scheme do not confer any admission of liability on the part of the employer.

In exceptional circumstances an employee may be refunded in respect of expenditure for private treatment (for example, where there are long waiting times for treatment or where treatment is not available in the public health service).



## **Employee's Entitlements following Expiry of Payment under the Serious Physical Assault Scheme**

Following expiry of an employee's entitlement to six months' pay under the Serious Physical Assault Scheme, an employee may be granted sick pay in accordance with the provisions of the normal sick pay regulations. If the employee eventually exhausts their entitlement to full pay under the normal sick pay regulations and is still unfit to resume work, consideration may be given at that stage to applying the injury grant scheme subject to the provisions of the relevant superannuation scheme.

### **Note**

*In the case of all employees, payment of the injury grant should be conditional on the employee undergoing medical reviews at appropriate intervals to determine their capability to resume work and to identify appropriate measures to facilitate the employee's return to work.*

## **Injury Grant Scheme**

Injury grant is an allowance paid to employees who are injured during the course of their work. It is provided for by Articles 49 and 109 of the Local Government (Superannuation) (Consolidation) Scheme 1998 and s.12.1 of the HSE Employee Superannuation Scheme 2010. In order to qualify for the allowance an employee must be injured—

- (a) In the actual discharge of his or her duty, and
- (b) Without his or her own default, and
- (c) By some injury attributable solely to the nature of his or her duty.

The gross amount of the allowance may not exceed five-sixths of the remuneration (inclusive of emoluments) of the position in which the employee received the injury and is subject to certain deductions such as any social welfare benefits or pension payable.

The injury grant is a payment for which application must be made and can be paid for life or for a limited period as the employer may consider reasonable (each case must be considered on its merits). Further information is contained in the Long Term Absence Benefit Scheme Guidelines (2012)

## **Insurance based compensation schemes for mental health and emergency department/related areas' nurses**

The insurance based schemes for nurses employed in mental health services and in emergency departments and emergency department assessment

areas provide for a scheme of personal injury cover for nurses who are assaulted in the course of their duties. For further information refer to HSE HR Circular 29/2008 (Insurance based mechanism to address significant trauma for mental health nurses); HSE HR Circular 04A/2008 (Insurance based scheme for mental health nurses); and HSE HR Circular 002/2017 (insurance based scheme and mechanism to nurses employed in Emergency Departments and related areas).

# Maternity Leave

## Introduction

The Maternity Protection Acts 1994 and 2004 provides protection for all pregnant employees, employees who have recently given birth and/or who are breastfeeding. There are no service qualifications.

## Maternity Leave

Employees are entitled to 26 weeks paid maternity leave subject to compliance with the statutory notification requirements.

A pregnant employee may begin and end her maternity leave on any day she selects but must take:

- a minimum of two weeks leave before the end of the expected week of confinement
- 4 weeks leave after the end of the expected week of confinement.

## Additional Maternity Leave

An employee is entitled to take 16 weeks' (unpaid) additional maternity leave immediately after the end of ordinary maternity leave.

## Payment while on Maternity Leave

All employees on maternity leave are entitled to basic pay plus normal fixed allowances less any maternity benefit to which they may be entitled on foot of their social welfare contributions. This does not include additional amounts due to night work, overtime, shift work, working unsociable hours, and standby or on-call allowances.

Part-time employees with regular weekly hours of attendance are entitled to normal basic pay (exclusive of unsocial hour's premium payments, overtime, on-call/standby allowances).

Part-time employees with varying weekly hours of attendance ("if and when required") are entitled to their average weekly pay, (exclusive of unsocial hours premium payments, overtime, on-call/standby allowances), calculated over the previous 13 weeks.

## Falling ill during paid or unpaid Maternity Leave

Employees who become ill during the last four weeks of maternity leave and who have applied for additional maternity leave or who already on additional maternity leave may, if they becomes sick, request the employer to terminate the additional maternity leave and to take sick leave instead. If the employer agrees the employee may be entitled to avail of the sick leave scheme. However, the employee will not be entitled to resume their additional maternity leave after this period of sick leave.

## Fixed-term Contracts

Employees on fixed term contracts are covered by the Maternity Protection Act for the duration of their contract and are entitled to receive maternity pay. However should the fixed term contract expire before the end of maternity

leave the employee's contract of employment will have come to an end and the employee will no longer be covered by the maternity protection legislation or be eligible for maternity pay.

The exception to this rule are NCHDs who are entitled to receive maternity pay from their employer for the full 26-week period, even if their contract expires prior to the end of their maternity leave. Refer to NCHD contract 2010 for further details.

### **Undergraduate Nursing/Midwifery Students Undertaking the Continuous Thirty Six week Internship (HSE Circular No. 28/2008)**

Students who are pregnant during the course of a paid internship may avail of maternity leave in accordance with the Maternity Protection Acts 1994 and 2004. Students on maternity leave may continue to receive payment up until the date the internship was due to expire.

The student will be entitled to return to complete the internship with pay at the end of the maternity leave and complete the outstanding clinical hours in order to fulfil the mandatory requirements of registration.

#### ***Still Births***

In the event of a stillbirth occurring after the 24th week of pregnancy, an employee is entitled to 26 weeks maternity leave.

#### ***Late Births***

If the baby's late birth means that an employee has less than four weeks maternity leave remaining after the week in which her baby was born, then she may extend her maternity leave to ensure she has a full four weeks off following the week of the birth.

#### ***Early Births***

In the event of an employee giving birth more than 4 weeks before the expected date of confinement the employee is entitled to take 26 weeks maternity leave from the date she gives birth. An employee must give written notice to their employer within 14 days of the birth in these circumstances.

### **Maternity Leave – Notification Requirements**

An employee must notify her employer of her intention to take maternity leave at least four weeks before the leave is due to commence. Employees must complete **Application Form – HR 108 (i)**.

Application for additional maternity leave should be made either at the time of the initial application or in writing not later than 4 weeks before the end of the maternity leave.

If an employee changes her mind about taking maternity leave she may revoke the notice by sending a further written notice to her employer.

### **Death of Mother – Father’s Entitlement**

If a woman who has been delivered of a living child dies at any time before the expiry of the fortieth week following the week of her confinement, the father of the child shall be entitled to paid leave from his employment for a period ending as follows:

- (a) if the mother dies before the expiry of the twenty-fourth week following the week of her confinement, the period ends at the end of that twenty-fourth week, and
- (b) If the mother dies at any time after the expiry of that twenty-fourth week at the end of the fortieth week following the week of her confinement.

Additionally a father who has taken leave as outlined in (a) above shall, if he so wishes be entitled to further unpaid leave from his employment for a maximum period of 16 consecutive weeks.

The leave may be postponed in the event of hospitalisation of the child or terminated in the event of the sickness of the father in line with similar provisions for the mother as outlined.

Leave to which the father is entitled must commence within 7 days of the mother’s death.

*c.f. S.I. No 51 of 2006 Maternity Protection Act 1994 (Extension of Periods of Leave) Order 2006*

### **Ante-Natal and Post-Natal Medical Care**

An employee is entitled to time off work without loss of pay to attend ante-natal and post-natal **medical** visits. Time off includes the time required to travel to and from the appointment. The employee must notify her employer in writing of the date and time of the appointment as soon as is practicable and in any event not later than two weeks before the date of the appointment.

### **Time off for Ante-Natal Classes**

A pregnant employee is entitled to time off work without loss of pay to attend one set of ante-natal classes (except for the last 3 classes). This right to attend only one set of antenatal classes covers all an employee’s pregnancies while in employment. If, for any reason, the employee is unable to attend some classes due to circumstances beyond her control including:

- miscarriage
- stillbirth
- premature birth
- illness of the employee

Then the employee can carry over her entitlement to paid time off work to attend any untaken classes (excluding the last 3 classes) to her next pregnancy.

Expectant fathers have a once-off entitlement to paid time off work to attend the last two ante-natal classes immediately prior to the birth.

### **Ante-Natal Classes – Notification Requirements**

The employee must notify her or his employer in writing of the dates and times of these classes as soon as is practicable and in any event not later than two weeks before the first class. If the employer wishes the employee may be required to provide the appropriate documentation outlining the dates and time of classes.

### **Health and Safety Leave**

Pregnant employees, employees who have recently given birth and/or employees who are breast-feeding may be entitled to take health and safety leave in certain circumstances (see below).

### ***Risk Assessment***

The Safety, Health and Welfare at Work (General Application) Regulations 2007 requires employers to assess the workplace for risks to safety or health of any pregnant employees, employees who have recently given birth or who are breastfeeding. If a risk is identified and it is not practicable to take protective or preventative measures, the employee's working conditions or working hours must be temporarily adjusted. If this is not possible, the employee must be given suitable alternative work. If no such work is available, the employee should be granted health and safety leave.

Where an employee has a medical certificate stating that for health and safety reasons she is not required to perform night work during the pregnancy or for 14 weeks immediately following childbirth, the employer must remove her from night work by either transferring her to day time duties or, if this is not feasible, granting the employee health and safety leave. "Night Work" is defined as work during the period between 11.00 p.m. and 6.00 a.m. where (a) the employee works at least three hours (not necessarily consecutive) in that period as a normal course, or (b) where at least 25% of the employee's working time is performed between those times.

### ***Payment during Health and Safety Leave***

An employee on health and safety leave is entitled to full basic pay plus any allowance normally paid from the employer for the first 21 calendar days of leave. Pay does not include additional amounts an employee would receive for night-work, shift-work, overtime, working unsociable hours, standby or on-call allowances.

An employee whose health and safety leave extends beyond 21 days may be entitled to health and safety benefit from the Department of Social Protection, subject to her P.R.S.I. contributions.

### **Postponement of Leave Due to Hospitalisation of Child**

An employee may postpone the period of maternity leave / additional maternity leave (subject to the agreement of her employer) in the event of the hospitalisation of the newborn child. Leave may only be postponed after 14 weeks maternity leave has been taken. These provisions apply to the father of the child, where the father is taking maternity leave in the place of the mother.

The decision to postpone the maternity leave or additional maternity leave is subject to the agreement of the employer. If the employer does agree to postpone the leave, then the employee concerned must return to work on the date agreed between both parties. The remaining leave is postponed and the employee will be entitled to take “resumed leave” not later than seven days after the discharge of the child from hospital. The remaining leave must be taken in one block.

The maximum period of postponement of leave will be 6 months from the return to work date. The employer may require an employee to provide a letter from the hospital in which the child is hospitalised, confirming the hospitalisation. The employer may also require a letter, or other appropriate documentation, from the hospital or the child’s GP confirming that the child has been discharged from the hospital in order to allow the employee to commence their postponed leave.

### **Protection of Employment Rights**

#### ▪ ***Maternity Leave and Additional Maternity Leave***

During maternity leave and additional maternity leave, an employee is treated as if she was still at work and therefore continues to accrue all rights (except the right to remuneration<sup>6</sup> and superannuation) during this period<sup>7</sup>. This includes the right to annual leave and public holidays, incremental credit, seniority, etc.

#### ▪ ***Health and Safety Leave***

During health and safety leave, an employee is treated as if she was still at work and continues to accrue entitlements based on actual service. However, she has no entitlement to any public holidays that may occur during this period.

#### ▪ ***Sick Leave and Annual Leave***

Absence from work on maternity leave may not be treated as part of any other leave, including sick leave or annual leave, to which an employee is entitled.

#### ▪ ***Public Holidays***

An employee’s maternity leave is extended by the number of public holidays which fall during the period of such leave (with the exception of health and safety leave).

#### ▪ ***Probation, training and apprenticeships***

All periods of probation, training and apprenticeship that are interrupted by maternity leave are suspended until the end of the leave.

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<sup>6</sup> Whilst the maternity protection legislation does not provide an entitlement to remuneration during maternity leave the health service operates a maternity pay scheme.

<sup>7</sup> In the event of the death of the mother, the same conditions apply to the father’s leave

- **Return to Work**

An employee who has been absent on maternity leave is entitled to return to the same job as previously held, under the same contract of employment.

Where it is not reasonably practicable to permit an employee to return to her previous job, she is entitled to 'suitable alternative work' which should not be substantially less favourable in terms of pay, responsibility, etc.

The employee's right to return to work is conditional on giving written notification of intention to return to work.

### **Breastfeeding Facilities**

Breastfeeding mothers who have given birth within the previous 6 months have an entitlement, without loss of pay, to either an adjustment of working hours to allow them to breastfeed their child, or where breastfeeding facilities are provided by the employer, to breastfeeding breaks. These breaks may be taken in the form of:

- One break of 60 minutes per day
- Two breaks of 30 minutes each per day
- Three breaks of 20 minutes per day
- Or in such other manner as agreed between her and her employer

If no breastfeeding facilities exist the employee may reduce her working day by 1-hour and that reduction may comprise of:

- One period of 60 minutes
- Two periods of 30 minutes each
- Three periods of 20 minutes
- Or in such other manner as agreed between her and her employer



## **Adoptive Leave**

### **Introduction**

All employees are covered by the Adoptive Leave Acts 1995 -2005, which provides a range of entitlements for adopting parents.

Adoptive leave may be granted to the following:

- An employed adopting mother;
- A sole male adopter: that is, a male employee who is adopting a child on his own;
- An employed adopting father is also entitled to certain leave in circumstances where the adopting mother has died before or during the period of adoptive leave or additional adoptive leave.

### **Adoptive Leave Entitlements**

An employee is entitled to 24 consecutive weeks' (paid) adoptive leave and 16 consecutive weeks' additional (unpaid) adoptive leave subject to compliance with the notification requirements.

In the case of a foreign adoption, some or all of the 16 weeks' additional adoptive leave may be taken immediately before the date of placement.

The adopting mother / father and employer may agree to terminate unpaid additional adoptive leave in the event of her illness thereby allowing the employee to transfer onto paid sick leave. However, the employee will not be entitled to resume their additional adoptive leave after this period of sick leave.

### **Additional Adoptive Leave**

An employee is entitled to take 16 weeks' (unpaid) additional adoptive leave immediately after the end of ordinary adoptive leave.

### **Notification Requirements**

The entitlement to adoptive leave and additional adoptive leave is subject to the notification requirements and evidence of placement requirements.

An employee must give at least 4 weeks' notice, before the expected day of placement of the child, of his / her intention to take adoptive leave. If the day of placement is postponed the leave may be postponed until the new day of placement.

Application for additional adoptive leave should be made not later than 4 weeks before the end of the paid adoptive leave.

An adopting parent who is taking adoptive leave must give her/ his employer a certificate of placement. The certificate must be given as soon as reasonably practicable as but no later than 4 weeks after the day of placement. The certificate may be obtained by the employee from the Health Service Executive or the adoption society which arranged the placement. An Board Uchtála will issue the certificate of placement in other Irish placement cases.

In the case of foreign adoptions an eligible employee must give her/his employer a copy of the declaration of eligibility and suitability before beginning adoptive leave or additional adoptive leave (whichever is the earlier). He or she must give the employer details of the placement as soon as is reasonably practicable.

### **Payment while on Adoptive Leave**

While the adoptive leave legislation does not protect the employee's entitlement to remuneration, the health service operates an adoptive pay scheme as follows:

All employees on adoptive leave are entitled to their basic pay plus normal fixed allowances less any adoptive benefit to which they may be entitled on foot of their social welfare contributions. This does not include additional amounts due to nightwork, overtime, shiftwork, working unsociable hours, standby or on-call allowances.

Part-time employees with regular weekly hours of attendance are entitled to their normal basic pay (exclusive of unsocial hours premium payments, overtime, on-call/standby allowances).

Part-time employees with varying weekly hours of attendance ("if and when required") are entitled to their average weekly pay, (exclusive of unsocial hours premium payments, overtime, on-call/standby allowances), calculated over the previous 13 weeks.

No payment is made in respect of additional adoptive leave.

### **Protection of Employment Rights**

#### **Adoptive Leave and Additional Adoptive Leave**

During adoptive leave and additional adoptive leave, the employee is treated as if s/he was still at work and therefore continues to accrue all rights (except the right to remuneration<sup>8</sup> and superannuation) during this period. This includes the right to annual leave and public holidays, incremental credit, seniority, etc.

#### **Sick leave and Annual leave**

Absence from work on adoptive leave or additional adoptive leave may not be treated as part of sick leave, annual leave or any other leave to which an employee is entitled.

#### **Public holidays**

An employee's adoptive leave is extended by the number of public holidays which fall during the period of such leave.

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<sup>8</sup> Whilst the adoptive leave legislation does not provide an entitlement to remuneration during adoptive leave the health service operates a scheme of paid adoptive leave

### **Probation, training and apprenticeships**

All periods of probation, training and apprenticeship that are interrupted by adoptive leave are suspended until the end of the leave.

### **Attendance at Pre-adoption Classes and Meetings**

Adopting parents are entitled to time off during work hours without loss of pay to attend preparation classes and pre-adoption meetings required during the adoption process with social workers/ Health Service Executive officials<sup>9</sup>. Written notification of dates and times of classes must be supplied to the employer not later than 2 weeks before the dates of the classes concerned.

### **Return to Work**

An employee who has been absent on adoptive leave is entitled to return to the same job as previously held, under the same contract of employment.

Where it is not reasonably practicable to permit an employee to return to his/her previous job, he/she is entitled to 'suitable alternative work' which should not be substantially less favourable in terms of pay, responsibility, etc.

An employee must inform her/his employer, in writing, at least 4 weeks beforehand of the date on which she/he intends to return to work after adoptive leave or additional adoptive leave. The employee's right to return to work is conditional on giving written notification of intention to return to work.

### **Postponement of Adoptive Leave or Additional Adoptive Leave in Event of Hospitalisation of Child**

Under the Act an employee may, if the adopted child is in hospital and the employee is entitled to or is on adoptive leave or additional adoptive leave, apply to the employer to postpone:

- part of the adoptive leave
- part of the adoptive leave not taken and the additional adoptive leave or
- the additional adoptive leave or part of it not taken.

The decision to postpone the adoptive leave or additional adoptive leave is subject to the agreement of the employer. If the employer does agree to postpone the leave, then the employee concerned must return to work on the date agreed between both parties. The remaining leave is postponed and the employee will be entitled to take "resumed leave" not later than seven days after the discharge of the child from hospital or such other date as may be agreed between the employee and the employer. The remaining leave must be taken in one block.

The maximum period of postponement of leave will be 6 months from the return to work date. The employer may require an employee to provide a letter from the hospital in which the child is hospitalised, confirming the hospitalisation. The employer may also require a letter, or other appropriate

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<sup>9</sup> This applies only to pre-adoption classes and meetings within the State.

documentation, from the hospital or the child's GP confirming that the child has been discharged from the hospital in order to allow the employee to commence their postponed leave.

If an employee who postpones her/his adoptive leave becomes ill after returning to work and before taking "resumed leave" she/he may be considered to have started her resumed leave on the first day of absence because of illness. Alternatively, she may choose to forfeit her right to resumed leave and have her leave treated in the normal manner under the sick pay scheme.

### **Death of Adopting Mother – Adopting Father's Entitlement**

Adopting fathers (under a contract of employment), where the adopting mother dies before the date of placement, are entitled to the 24 weeks of paid adoptive leave.

Where the adopting mother dies on or after the day of placement, adopting fathers are entitled to 24 weeks paid adoptive leave less the period beginning on the day of placement and ending on the date of the mother's death ie: the balance of the leave.

Where the adopting mother dies before the expiration of the 24th week following the date of placement, an adopting father has an overall entitlement to 16 weeks unpaid leave.

If an adopting mother dies on or after the expiration of 24 weeks from the date of placement, the adopting father has an overall entitlement to 16 weeks unpaid leave less the period between the date of that expiration and the date of the mother's death.

# Paternity Leave

## Entitlement to Paternity Leave

The Paternity Leave and Benefit Act 2016 came into effect on the 1 **September 2016**. The Act provides that an employee who is a relevant parent in relation to a child shall be entitled to “2 weeks leave<sup>10</sup> from his or her employment to enable him or her to provide, or assist in the provision of, care to the child or to provide support to the relevant adopting parent or mother of the child, as the case may be, or both”. An employee who is a relevant parent is entitled to paternity leave in respect of a child where the date of confinement falls on or after 1<sup>st</sup> September 2016. In the case of a child who is, or is to be, adopted, an employee is entitled to paternity leave where the day of placement in respect of the child falls on or after 1<sup>st</sup> September 2016. The leave can be taken at any time **within the first 6 months** following the birth of the child or the placement of the relevant child with their adoptive parents.

- Paternity Leave shall comprise a single period of 2 weeks except in situations where the child is hospitalised.
- Only one person who is a relevant parent in relation to a child shall be entitled to paternity leave in respect of that child<sup>11</sup>.
- An employee is only entitled to **one period** of paternity leave in respect of multiple births or where he or she adopts 2 or more children at the same time.

## Payment while on Paternity Leave

Employees on paternity leave may be eligible for Paternity Benefit paid by the Department of Social Protection (DSP). Paternity Benefit will be paid at the same rate as Maternity Benefit and will be based on the same PRSI contribution requirements. All employees applying for Paternity Benefit must have their paternity leave certified by their employer. A form **PB 2: Employer Certificate** is available for this purpose. Further information on the arrangements relating to Paternity Benefit and frequently asked questions are set on the DSP website - <https://www.welfare.ie/en/Pages/Paternity-Benefit-FAQ.aspx>

While the legislation does not provide an entitlement to remuneration during paternity leave (apart from the provisions relating to State Paternity Benefit)

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<sup>10</sup> The Act does not define what is meant by “2 weeks leave” but it may be interpreted as a block of 2 continuous calendar weeks from the date chosen by the employee as the commencement date of paternity leave.

<sup>11</sup> The only exception is in the case of adoptions where paternity leave was taken prior to the adoption of the child by a person other than the relevant parent (section 6(4))

health service employees who take paternity leave under the 2016 Act are entitled to receive the following from their employer:

- his/her normal basic remuneration plus normal fixed allowances **less** Paternity Benefit to which he/she may be entitled from the Department of Social Protection (subject to PRSI contributions).
- This payment does not include additional amounts due to nightwork, overtime, shiftwork, working unsociable hours, standby or on-call allowances.

### **Scope of the Act**

The leave entitlement will apply to:

- the father of the child,
- the spouse, civil partner or cohabitant of the mother of the child (regardless of gender),
- a parent of the child under section 5 of the Children and Family Relationships Act 2015 where the child is a donor-conceived child within the meaning of that Act.

In the case of a child who is adopted the leave will apply to:

- a person (other than the mother of the child) who is the spouse, civil partner or cohabitant of the adopting mother or sole male adopter of the child,
- where the child is, or is to be, jointly adopted by a married couple of the same sex, the spouse chosen by that couple to be the relevant parent for the purposes of the Paternity Leave and Benefit Act 2016.

### **Notification Requirements**

The employee is required to give written notification of his or her intention to take paternity leave as soon as reasonably practicable but not later than **4 weeks before the expected week of confinement** of the expectant mother concerned.

In the case of a child who is, or is to be, adopted the employee is required to give written notification as soon as reasonably practicable but not later than **4 weeks before the expected day of placement**.

HSE Form HR 108(k) is the relevant form for completion. A guidance note accompanying the form is attached and sets out the additional conditions applying to the notification process.

### **Allocation of Parental Leave**

The employee may decide on the commencement date for his or her paternity leave and this date should be specified in the employee's written notification of intention to take leave. The period of paternity leave will commence on the date the employee has set out in his or her written notice but it cannot commence earlier than the date of confinement of the expectant mother, or day of placement for adoption, and cannot be later than 26 weeks after that date or day.

### **Commencement of Paternity Leave (Early Confinement)**

In the case of early births where the date of confinement occurs in a week that is 4 weeks or more before the expected date of confinement, the employee shall be deemed to have complied with the notification requirements if he or she gives the notification required within 7 days of the date of confinement.

### **Employees on Fixed Term or Specified Purpose Contracts**

Where an employee who is a relevant parent is employed under a fixed term contract and the fixed term contract will expire before the end of the period of paternity leave then the employee's paternity leave entitlement will cease on the date of expiry of his or her contract of employment and the employee will no longer be covered by the paternity leave legislation. In the case of an employee on a specified purpose contract, the paternity leave entitlement will cease when the contract of employment is terminated (i.e. upon the cesser of the purpose for which he or she was employed).

### **Postponement of Paternity Leave**

Where the day of placement is postponed or the date of confinement occurs after the date selected by the employee in his or her written notification, the employee shall be entitled to select another commencement date for the paternity leave.

### **Postponement of Paternity Leave in event of sickness of the relevant parent**

Where an employee becomes sick prior to the commencement of his or her paternity leave and wishes to postpone the paternity leave, he or she may do so by giving notice in writing as soon as reasonably practicable after becoming sick and providing the relevant evidence in respect of the sickness (i.e. medical certificate). The employee may postpone the taking of paternity leave to such time as he or she is no longer sick. The entitlement to avail of postponed leave is subject to the employee giving written notification as soon as reasonably practicable but not later than the day on which the postponed leave begins of his or her intention to commence such leave.

### **Postponement of Paternity Leave in event of hospitalisation of child**

An employee who is entitled to, or is on, paternity leave may, if the child concerned is hospitalised, request his or her employer to postpone the leave or part of it as may be appropriate. The employee must submit this request in writing. The postponement of leave is subject to the employer's agreement. The employer shall notify the employee in writing of the decision in relation to the request to postpone leave as soon as reasonably practicable following receipt of it.

### **Employment Protection**

While an employee is on paternity leave the employee shall be considered to be in the employment of the employer and shall be treated as if he/she had not been absent. Paternity leave will not affect any rights related to the

employee's employment other than his/her right to remuneration during paternity leave<sup>12</sup>.

### **Return to Work**

An employee is entitled to return to work at the expiry of the period of parental leave:

- To the same job as previously held
- On the date specified in the written notice of application for leave.

Further details on the terms and conditions attaching and accompanying guide are set out in HSE HR Circular 003/2017.

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<sup>12</sup> Health service employees who take paternity leave under the 2016 Act are entitled to his/her normal basic remuneration plus normal fixed allowances less Paternity Benefit to which he/she may be entitled from the Department of Social Protection (subject to PRSI contributions).



## Parental Leave

The Parental Leave Act 1998 and 2006 provides an entitlement for parents to avail of unpaid leave from employment to enable them to take care of young children.

### Amount of Parental Leave

Employees who are the natural or adoptive parents of a child or who are acting in *loco parentis* in respect of a child are entitled to parental leave of 18 weeks per child to enable them to take care of the child (**HSE HR Circular 006/2013**). Where an employee has more than one child, parental leave is limited to 18 weeks in a 12-month period.

In the case of multiple births, an employee is entitled to 18 weeks' leave for each child of the multiple birth and the 12 month restriction on the taking of the leave does not apply.

### Age of Child

In general, a period of parental leave must end not later than the day on which the child attains the age of **13 years (HSE HR Circular 003/2011)**.

If a child was adopted between the age of eleven and thirteen, leave in respect of that child may be taken up to two years after the date of the adoption order.

Where a child has a long term illness / disability the period of parent leave must end not later than the day on which the child attains the age of 16 years. A disability is defined under the Act as *“an enduring physical, sensory, mental health or intellectual impairment of the child such that the level of care that is required for the child is substantially more than the level of care that is generally required for children of the same age who do not have any such impairment”*. Long-term illness means an illness, the effect of which is that the level of care required for the child is substantially more than the level of care that is generally required for children of the same age who do not have any such long term illness.

A maximum of 14 of the 18 weeks parental leave may be transferred from one parent to another if both parents are employed by the same employer, subject to the employer's agreement (HSE HR Circular 006/2013).

Generally the employee must have at least one year's continuous service with the employer before s/he is entitled to taken parental leave. However, where the child is approaching the age threshold and the employee has more than three months' but less than one year's service with the employer, s/he shall be entitled to *pro rata* parental leave. In such a case the employee will be entitled to one week's leave for every month of continuous employment completed with the employer when the leave begins.

### **Notification of Parental Leave**

An employee must give written notice to the employer of his or her intention to take parental leave, not later than six weeks before the employee proposes to commence the leave.

### **Confirmation of Parental Leave**

Once the employee has notified her or his employer that she or he wants to take parental leave, the employee and the employer must prepare a 'confirmation document'. This document must be prepared no later than four weeks before the leave is due to begin.

The document must include the following details:

- the date on which the leave will begin;
- the length of time that the employee will be on parental leave;
- the manner in which the leave will be taken;
- signatures of the manager and the employee.

### **Revocation of Notice**

The employee may change her or his mind and decide not to take parental leave at any time before the confirmation document is signed. The employee must notify the employer in writing that she or he has decided not to take parental leave.

### **Manner in which Parental Leave May be Taken**

Parental leave may consist of the following:

- One continuous period of 18 weeks, **or**
  
- Two separate periods each consisting of not less than 6 weeks and not exceeding 18 weeks in total. An employee is not entitled to take the second of these two separate periods until at least 10 weeks have elapsed since the end of the first period, unless the Department Head consents; **or**
  
- *Subject to the approval of the employer*, a number of periods, each of which comprises:
  - (i) one or more days on which the employee would normally be scheduled work, **or**
  
  - (ii) one or more hours during which the employee would normally be scheduled to work, **or**
  
  - (iii) a combination of the above.

***The total number of hours due to the employee for parental leave purposes is calculated as follows:***

Where an employee takes parental leave in separate blocks or by working reduced hours, parental leave is such that the number of hours which, but for the leave, the employee would be working equals:

the number of hours worked by the employee in a continuous period of 18 weeks before the commencement of leave (as may be determined by the employer and the employee),

**or**

if the employee and employer fail to determine a 18 week period, 18 times the average number of hours per week worked by the employee in each of the periods of 18 weeks ending immediately before the beginning of each week in which s/he takes any of the leave.

In determining a period of 18 weeks, holidays (including public holidays) to which the employee is entitled or days on which s/he is absent from work on sick leave, maternity leave, adoptive leave or *force majeure* leave are excluded, and a corresponding number of days immediately before the commencement of the period of parental leave is included. Time spent on parental leave itself is deemed to be time worked.

Part-time employees are entitled to parental leave on a pro rata basis.

### **Salary Deductions**

In the HSE salary deductions may be calculated as follows:

- i) Establish net weekly working hours, i.e. working day less unpaid meal breaks, e.g. 8.30 to 5 Monday to Thursday and 9 to 5 Friday with one hour lunch break = 7.5 hours per day Monday to Thursday and 7 hours on Friday. Net weekly working hours = 37 hours.
- (ii) Reduce basic salary by number of working hours taken as parental leave
- (iii) The employee continues to receive payment in full for unsocial hours actually worked in the pay period.

### **Illness of parent**

If an employee becomes ill while on parental leave and is unable to care for the child the leave can be suspended for the duration of the illness. In order to suspend the parental leave the employee must give written notice and relevant evidence of the illness to the employer as soon as is reasonably practicable. The parental leave resumes after the illness. During the illness the parent is treated as an employee who is sick.

### **Protection of Employment Rights**

An employee on parental leave is entitled to be treated as if s/he had not been absent, so that all his/her employment rights, except the right to remuneration and superannuation benefits, will be unaffected during the leave.

Employees retain an entitlement to any public holidays which fall during a period of parental leave. The Act provides that a corresponding number of days *in lieu* of public holidays shall be added to the end of the period of leave.

Absence from work on parental leave must not be treated as part of any other leave to which the employee is entitled (i.e. annual leave, sick leave, adoptive leave, maternity leave and *force majeure* leave).

Periods of probation, training or apprenticeship may be suspended during the period of parental leave.

### **Postponement of Parental Leave**

Parental leave may be postponed where the granting of leave for the period requested would create operational difficulties owing to the unavailability of a person to carry out the employee's duties, the nature of those duties or the number of employees who are availing of leave during that period. Postponement of parental leave is subject to the employee being permitted to take the leave not later than 6 months after the date on which s/he had proposed to take leave. The employer must consult with the employee before postponing the leave. Parental leave in respect of a particular child may not be postponed more than *once*.

#### **Note**

*An employer cannot postpone parental leave once the confirmation document has been signed by both parties.*

The employee must receive written notification of the postponement at least 4 weeks before the date on which s/he had intended to commence leave. The notice should also specify the reasons for the postponement and the new date of commencement.

The provision requiring parental leave to be taken before the child exceeds the age limit is waived in the event that postponed parental leave would breach these restrictions.

### **Right to Request changes to working hours or patterns (or both)**

As set out in HSE HR Circular 006/2013 an employee returning to work from parental leave may request changes to his or her working hours (HR Form 111 Flexible Working) or work patterns (or both) for a set period of time. The employer is obliged to consider and respond to such requests, taking into account both the employer's and employee's needs. However, there is no obligation on the employer to grant the change requested.

Employees should submit their request in writing as soon as reasonably practicable, but not later than six weeks before the proposed commencement of the set period of time concerned, specifying the nature of the changes requested and the date of commencement and duration of the set period requested.

Employees should be informed in writing if the request is being granted or refused as soon as reasonably practicable, but not later than four weeks after receiving the employee's application.

If the employer agrees to amend the employee's working hours and/or work pattern, the new arrangements should be set out in writing and signed by both parties. The agreement should specify:

- The changes to the employee's working hours or patterns, or both, as the case may be, and
- The date of the commencement and duration of the set period.

The employer should retain the agreement and give a copy to the employee.

Prior to the signing of an agreement, an employee may revoke his or her request by giving notice in writing to the employer.

## Force Majeure Leave

The Parental Leave Act also makes provision for “force majeure” leave, which allows an employee to take immediate time off from work in the event of an unforeseen injury or illness of a close family member where the presence of the employee is indispensable.

### Entitlement

The maximum force majeure leave that may be availed of is 3 working days in 12 consecutive months or 5 working days in 36 consecutive months.

Force majeure leave may be granted in respect of the following persons:

- a person of whom the employee is the parent or adoptive parent;
- the spouse of the employee or a person with whom the employee is living as husband and wife;
- a person to whom the employee is in loco parentis;
- a brother or sister of the employee; and
- a parent or grandparent of the employee
- persons in a relationship of domestic dependency including same-sex partners.

There is no minimum service requirement for entitlement to force majeure leave.

Force majeure leave may consist of one or more working days subject to the maximum set out above. Where an employee is absent from work for only part of the day, this should still be counted as one day of force majeure leave.

A force majeure leave day is normally based on the length of the day that the employee is rostered to work on the day, e.g. if a person is rostered to work 9 hours on the day that they had to take force majeure leave this would be considered one day’s force majeure leave. The same would also apply if the person was rostered to work for four hours on the day.

### Protection of Employment Rights

An employee on *force majeure* leave is entitled to be treated as if s/he had not been absent so that all his/her employment rights will be unaffected during the leave. The employee receives the pay which would have applied on that day.

Absence from work on *force majeure* leave must not be treated as part of any other leave to which the employee is entitled (i.e. sick leave, annual leave, adoptive leave, maternity leave and parental leave).

## Carer's Leave

The Carer's Leave Act 2001 entitles employees to avail of temporary unpaid leave from their employment to enable them to personally provide full-time care and attention for a person who is in need of such care, ("the relevant person"). The period of leave to which an employee is entitled is subject to a maximum of 104 weeks in respect of any one care recipient. An employee may work up to a maximum of 15 hours per week during carer's leave or may attend an educational or training course or take up voluntary or community work for up to 15 hours per week.

### "Relevant Person"

The relevant person is a person who is deemed to be in need of "full-time care and attention" by the Department of Social Protection. This means that the person being cared for must be so disabled as to require:

- Continuous supervision and frequent assistance throughout the day in connection with his / her normal personal needs, e.g. help to walk and get about, eat, drink, wash, bathe, dress etc.
- Continuous supervision in order to avoid danger to him / herself.

The employee is required to apply to the Department of Social Protection which will determine whether s/he is eligible for carer's leave.

### Entitlement to Carer's Leave

An employee must fulfil the following criteria before they are eligible to apply for Carer's Leave:

- He / she must have completed at least 12 months continuous service with his / her current employer before the commencement of the leave. There is no weekly working hours threshold.
- The employee must intend to take the leave for the purpose of personally providing full-time care and attention for a person who is in need of such care for the duration of the leave.
- The person receiving full time care and attention must be objectively assessed and deemed to be in need of full time care by a deciding officer from the Department of Social Protection.
- Only one employee may be on carer's leave in respect of any one relevant person, at any one time.
- An employee will generally not be permitted to be on Carer's Leave in respect of more than one relevant person at any one time. However, *on one occasion only*, an employee may commence leave in respect of a relevant person, while already on leave in respect of another relevant person, where the ***two relevant persons reside together***.

### **Notification Requirements**

An employee is required to give at least 6 weeks notice in writing of his / her intention to avail of Carer's Leave, except in emergency circumstances where it is not reasonably practicable to do so.

A statement of notice must contain the following information:

- The date on which the employee intends to commence the leave
- The duration of the leave
- The manner in which the employee proposes to take the leave
- A copy of the decision of the deciding officer (or appeals officer) from the Department of Social Protection, confirming that the relevant person has been medically certified as being in need of full time care.
- The employee's signature and date.

HSE employees must complete and submit HR Form 108(c) to their Department Head which contains the Application Form for Carers Leave.

### **Manner in which Carer's Leave may be Taken**

The Act provides that the leave should be taken in one of the following ways:

- One continuous period of 104 weeks; or
- One or more periods, the total duration of which amounts to not more than 104 weeks.

Where the employee wishes to take Carer's Leave over a number of broken periods the following conditions apply:

- The minimum statutory entitlement that may be taken in one period at the discretion of the *employer* is 13 weeks.
- An employer may refuse, *on reasonable grounds* given to an employee in writing, to permit an employee to take carer's leave for any period of *less than* 13 weeks.
- There must be a gap of at least 6 weeks between periods of carer's leave taken in respect of the same relevant person.
- An employer and employee may agree arrangements for carer's leave on terms more favourable to the employee.
- The Act requires an employee to notify his / her employer of any change of circumstances that affect his / her entitlement to Carer's Leave.

### **Taking Carer's Leave for Another Relevant Person**

An employee who wishes to avail of carer's leave for another relevant person must generally wait for a period of 6 months after the date of termination of the leave in respect of the previous relevant person.

### **Confirmation of Carer's Leave**

A "confirmation document", (which outlines the date on which the leave period will commence and the duration of the leave period) must be prepared and



signed by the employer and employee not less than 2 weeks before the leave is due to commence (HR Form 108c Carers Leave).

### **Revocation of Notice**

An employee who wishes to revoke the notice of his / her intention to take Carer's Leave must do so in writing prior to the date of the confirmation document.

### **Alterations to the Confirmation Document**

An employer and an employee may agree, after the date of the confirmation document, to postpone or curtail the leave, or vary the form in which it will be taken. Where this occurs the confirmation document should be amended to reflect the changes.

### **Protection of Employment Rights**

During an absence on carer's leave, an employee is regarded as still working for all purposes relating to his / her employment, and all of his / her employment rights will be unaffected during the leave, with the following exceptions:

- There is no right to remuneration and superannuation benefits.
- He / she will accrue annual leave and public holiday entitlements for the first 13 weeks of the leave only.
- A period of probation or an apprenticeship may be suspended during carer's leave.
- Periods of carer's leave cannot be treated as any other type of leave, e.g. sick leave, annual leave, adoptive leave, maternity leave, parental leave or *force majeure* leave.

Employers are precluded from penalising an employee for exercising his / her rights under the Act, which includes dismissal of the employee, unfair treatment of the employee (including selection for redundancy), and an unfavourable change in the conditions of employment of the employee.

### **Termination of Carer's Leave**

The Act provides that a period of Carer's Leave shall terminate as follows:

- On the date specified in the confirmation document.
- On a date agreed between the employer and the employee.
- Where the person being cared for ceases to require full-time care and attention, e.g. where their condition improves sufficiently as to no longer render them to be in need of full time care and attention.
- Where an employee no longer satisfies the requirements for the provision of full time care and attention for the purposes of the Act.
- Where a deciding officer from the Department of Social Protection makes a decision against an employee.
- Where the relevant person dies during a period of Carer's Leave, the employee will return to work either six weeks after the death or on the date specified on the confirmation document (whichever is earlier).

### **Return to Work**

An employee who is on Carer's Leave must notify his / her employer of his / her intention to return to work *not less than four weeks before the date on which that employee is due to return to work.*

An employee is entitled to return to work at the end of the Carer's Leave to the job that he / she had held immediately prior to the leave, under the same terms and conditions of employment. If it is not reasonably practicable for an employer to allow an employee to return to the job held immediately prior to the leave, the employer must offer the employee suitable alternative employment under a new contract of employment, the terms of which cannot be substantially less favourable to the employee.

### **Disputes**

An employee may refer a dispute in relation to an entitlement under the Carer's Leave Act 2001, or any matter arising out of such an entitlement, to an Adjudication Officer of the Workplace Relations Commission. A claim must be made in writing within 6 months of the occurrence of the dispute.

### **Carer's Benefit**

An employee may be entitled to receive carer's benefit during carer's leave. Further details may be obtained by the employee from the Department of Social Protection.

## **Special Leave with Pay on Marriage**

All employees may be allowed up to a maximum of five days' special leave with pay when they marry, provided the amount of special leave granted for this purpose together with the annual leave allowance in respect of the leave year in which the marriage takes place does not exceed a total of 24 days or hourly equivalent, (or where appropriate a pro-rata entitlement) excluding any annual leave carried over from the previous year.

The terms of the scheme for granting marriage leave have now been extended to include health service employees on the occasion of civil partnership registration i.e. at the time of the civil partnership a maximum of 5 days paid leave may be granted subject to an overall total, between annual leave and civil partnership registration of 24 days. See HR Circular 007/2011

*c.f. [Department of Health Circular No. S116/48](#)  
& [Department of Health and Children Circular dated 11 July 1997](#)  
[HSE HR Circular 007/2011](#)*

## Compassionate Leave

Compassionate Leave may be granted to an employee in the event of the death of a relative up to a limit of:

- a) Five working days in the case of a spouse (including a cohabiting partner), child (including adopted children and children being cared for on the basis of 'in loco parentis') or any person in a relationship of domestic dependency, including same sex partners;
- b) Three working days in the case of other immediate relatives as follows: father, mother, brother, sister, father-in-law, mother-in-law.

In exceptional circumstances (e.g. where the employee concerned has lived in the same house as the deceased or has to take charge of funeral arrangements) an employee may be granted up to three working days' special leave on the death of a more distant relative.

In a case where an employee has to travel abroad to make funeral arrangements in respect of a relative specified in paragraph 1, special leave with pay in excess of the limits prescribed above may be granted at the discretion of the employer.

Compassionate leave is granted only at the time of the bereavement to facilitate the employee with time off from work and is not granted retrospectively where it occurs during days when an employee is not normally scheduled to work.

For further information see HSE HR Circular 016/2012.

Note that where collective agreements are in place prior to HSE HR circular 016/2012 such local arrangements continue to apply.

## Jury Service

The Juries Act, 1976 provides that every citizen aged between 18 and 70 years who is entered in the Dail Electoral Register may be called for jury service, with the following exceptions:

Certain professional categories are excused as of right, including:

- Nurses;
- Dentists;
- Pharmacists; and
- Medical Practitioners

An employee who has served (or attended to serve) on a jury in the previous three years may be excused by the county registrar. A judge may also excuse a juror from service for a period of time.

Employers have a duty to allow employees to attend for jury service. However, if it is not possible due to service requirements to allow the employee to attend, s/he may be granted a certificate from the appropriate manager, stating that it would be contrary to the public interest for him/her to serve as a juror because s/he performs essential and urgent services of public importance that cannot reasonably be performed by another or postponed.

An employee is treated as employed during any period s/he is complying with a jury summons. An employee is therefore entitled to full pay inclusive of fixed allowances/unsocial hours premium payments and continues to accrue entitlements to annual leave, incremental credit etc while on jury service.

## **Career Breaks**

Department of Health Circular S146/99 (16/3/84, 27/11/84, 26/8/87, 30/3/89, 7/11/90) and HSE HR Circular 010/2013 set out the provisions of the career break scheme in the health service.

An employee can be granted a career break for any of the following reasons:

- domestic reasons, e.g. child-rearing;
- educational purposes, e.g. to attain a post-graduate qualification;
- foreign travel.

All employees who have completed their probation period are eligible to apply for a career break. Employees who are still on probation may be granted a career break in exceptional circumstances, e.g. to cope with unusual domestic difficulties. The employee's probation in this circumstance is extended by the length of the career break.

An employee's application may be refused where it is considered that the granting of a career break would have a detrimental effect on the service. Replacement cover if required is subject to current approval procedures.

### **General Conditions**

The minimum period for a career break is one year (except where leave is required to cope with unusual domestic difficulties) and the maximum period is five years. An employee may take a career break immediately following a period of special leave with nominal pay provided the combined leave does not exceed five years.

HSE HR Circular 010/2013 revised the limits which apply to career breaks. An employee may be granted a maximum period of 3 career breaks which, when aggregated, do not exceed 8 years. On the date of the commencement of the second or third career breaks the employee must have served since their return from the earlier career break for a period equal to the duration of that career break. In exceptional circumstances this period of service requirement between career breaks may be waived).

### **Granting a Career Break**

Employees may apply for a career break by completing and submitting the Career Break Application Form HR 105 to their Department Head. Applicants will be advised of the decision to approve/defer or refuse their application in writing.

### **Notice to Return to Work**

An employee is obliged to give at least three months' notice of his/her intention to return to work. An employee's right to return to work upon expiry of the career break is conditional on their compliance with this notification requirement.

Employees returning from career break are guaranteed re-employment in their substantive grade within 12 months of the expiry of the career break.

Every reasonable effort should be made to find a suitable vacancy in the employee's substantive grade and to minimise the delay in facilitating the employee's return to work. If upon expiry of the career break a vacancy does not exist in the substantive grade, the employee may be offered a post at a lower grade as an interim arrangement. During this period the employee will receive the salary applicable to that post.

### **Career breaks for NCHDS**

The following arrangements apply to NCHDs with more than two years service. NCHDs who meet this service requirement may apply for a career break to facilitate further training abroad prior to return to employment as a Specialist in the Irish public healthcare system. The NCHD must meet the following conditions:

- Have commenced employment in the Public Service prior to 1 January 2013;
- Have been continuously employed in the Public Service since that date and have a minimum of two years service; and
- wish to go abroad to take up training posts or to take up positions to provide them with the necessary skill sets to enable them to compete for Consultant posts;

NCHDs wishing to avail of a career break under this arrangement must apply to their employer in sufficient time before the expiry of their current contract. Further details setting out the arrangements to apply are set out in HSE HR Circular 010/2014.

NCHDs may also for apply for a career break if they have to rotate into private hospitals / agencies for a period of 26 weeks or more as part of a recognised training scheme. The NCHD must meet the following conditions:

- Have commenced employment in the Public Service prior to 1 January 2013;
- Have been continuously employed in the Public Service since that date;
- the career break is for training purposes only and not to take up other private sector employment; and
- must return to a post in the HSE or HSE-funded agency when the training period has expired.

Further information is set out in HSE HR Circular 011/2014.

## Study Leave

Paid study leave may be granted to employees in respect of third level courses and examinations, subject to the standard arrangements governing the grant of leave generally and provided the costs can be accommodated by the employee's line manager within their approved financial allocation.

The grant of study leave may be considered for Bachelor, Master, Diploma and other third level courses in subjects relevant to the employee's area of work, as agreed with and approved by the line manager.

Employees pursuing primary degree courses in their own time may be allowed up to ten days study leave with pay, over the full duration of the course. Employees should be given as much freedom as possible as regards spreading the leave over the various course examinations, subject to the condition that a **maximum limit of five days study leave with pay** will apply to any academic year.

This arrangement will also apply to other third level courses of education that last for three years or longer. For shorter third level courses, **three days study leave with pay** may be allowed for each year of the course, repeat years being excluded.

Staff working less than full time will have study leave calculated on a pro-rata basis, subject to a minimum entitlement of **one day's study leave** per individual per course.

Attendance at the course must be agreed locally between the line manager and the employee prior to commencement on the course and will be subject to ongoing service requirements.

### Study Leave NCHDs

NCHDs may be granted up to a maximum of 18 working days educational leave per 6-month period to facilitate:

- (1) Attendance at courses, conferences, and educational events determined to be appropriate by the HSE, the recognised postgraduate training bodies and the Universities;
- (2) Study leave prior to an examination or repeat examination for higher degrees or diplomas determined to be appropriate by the HSE, the recognised postgraduate training bodies and the Universities;
- (3) Attendance at examinations determined to be appropriate by the HSE, the recognised postgraduate training bodies and the Universities;
- (4) Attendance at interviews within the Irish public health service appropriate to the NCHD's training / career pathway;

All educational leave must:

- (1) be relevant,



- (2) take account of service and rota needs,
- (3) be recommended by the supervising Consultant / Clinical Director and
- (4) be approved by the Employer in advance in line with the Employer's leave policy and with cognisance of the requirements of any specialist training / professional competence scheme the NCHD is participating in and related medical education and training requirements.

## **Special Leave with Nominal Pay**

Employees with professional qualifications are entitled to apply for special leave to work with a recognised agency in any of the following:

- a recognised underdeveloped country;
- a disaster/emergency region; and
- a developing country where the public health service is underdeveloped.

Approval may be granted to absences of one-year duration. Leave may be extended for a maximum period of three years under this scheme. Short-term absences may be considered in the case of disaster relief. No approvals should be made without the express prior approval of the relevant senior HR manager.

On completion of service abroad, individuals will be entitled to return to an equivalent post with the employing authority.

### **Superannuation**

During special leave, employees are paid a nominal amount per week to protect their superannuation rights.

Contributions are based on pensionable remuneration immediately prior to the commencement of special leave and are adjusted in line with general pay increases.

### **Incremental Credit**

Incremental credit will be allowed where the duties of the foreign assignment are, broadly similar in nature to the usual duties in this country. One increment will be allowed in respect of each year covered by the period of special leave, subject to a maximum of three increments.

Application for this leave should be made on HR form 110.

## **Leave for Deployment with the Rapid Response Corps (RCC)**

Employees who are members of Irish Aid's Rapid Response Corps may be granted special leave with pay for deployment to humanitarian emergencies.

The Rapid Response Corps is a roster of skilled and experienced volunteers who have been selected and trained by Irish Aid directorate of the Department of Foreign Affairs, and who are available at short notice for deployment to humanitarian emergencies.

Health service employees who wish to join the Rapid Response Corps must first seek approval from their employer to be available at short notice and for periods of up to 3 months for, to support Irish Aid's emergency relief operations.

Employees must seek approval from their employer to be released from their work before they can be deployed. If approval is granted employees may be released for a maximum of 3 months on full basic pay plus normal fixed allowances. This does not include additional amounts due to night-work, overtime, shift-work, working unsociable hours, standby or on call allowances. These payments will be fully reimbursed to the HSE from the Rapid Response Initiative budget, Department of Foreign Affairs, as an element of overseas development aid.

**c.f. [HSE HR Circular No. 17/2008](#)**

## Reserve Defence Forces

Employees who wish to attend training courses with the Reserve Defence Forces should be facilitated as far as possible consistent with the exigencies of the service in the following manner:

Attending annual or basic training:

For a course of annual training lasting 7 days – 3 working days

For a course of annual training lasting 14 days – 7 working days

For a course of annual training lasting 21 days – 10 working days

For a course of basic training lasting 14 to 30 days – special leave with pay for 5 working days

Attending special training (in addition to the above):

For a course of special training lasting 7 days – 3 working days

For a course of special training lasting 14 days – 6 working days

For a course of special training lasting 21 days – 9 working days

Special leave with pay in addition to the above may also be granted in respect of any time necessarily spent in travelling to and from a course of training.

If further leave is required to complete the training the employee may avail of special leave without pay or annual leave.

Staff are eligible for the paid leave granted under this circular only once in any leave year. *c.f. Department of Health & Children Circular No. S146/44*

<b>Reserve Defence Forces</b>		
	Training Reserve Defence Forces – with pay	Paid
	Training Reserve Defence Forces – unpaid	Unpaid

## Special Leave with Pay to Volunteer in Exceptional Humanitarian Crisis

HSE employees may be granted special leave with pay in response to a designated exceptional humanitarian crisis.

The terms of this new scheme are as follows:

- The Director General of the HSE will declare when the HSE response to exceptional humanitarian crisis applies.
- An Emergency Management Team (EMT) will be convened that will oversee arrangements including the selection of suitable organisations (e.g. World Health Organisation or other specified NGO), deciding on the skills and expertise and the number of staff required and the selection of staff for deployment.
- Employees who wish to avail of the scheme must be approved for release by their line manager and the relevant Assistant National Director of Human Resources/Head of Human Resources and selected by the EMT.
- Employees who are selected to participate in the scheme may be released for a maximum period of 3 months with pay (basic pay plus fixed allowances). All other employment terms and conditions will continue to apply during the approved deployment period (i.e. annual leave, incremental credit etc).
- Training and support during deployment will be provided by the selected organisation.

For further information see HSE HR circular 020/2015.

## **Leave for Trade Union Representatives**

### **Time off During Work**

Employee representatives of recognised staff associations and unions may be granted time off with basic pay to undertake routine duties arising from their position.

Time off to attend union duties is at the discretion of the relevant line manager and is contingent upon service needs being met. Requests for such leave will not be unreasonably withheld. The Labour Relations Commission's Code of Practice should be used for guidance.

### **Special Leave with Pay**

Special leave with pay may be granted to non full-time representatives to attend conferences/meetings who are duly authorised to attend such meetings.

The following time limits apply:

#### **Association / Union Meetings**

Annual delegate conferences	2 days per annum
Special delegate conferences	1 day per annum
<sup>13</sup> Executive meetings	20 days per annum

**Conference of the Irish Congress of Trade Unions**

Annual conferences and special delegate conferences                      No Limit

The grant of time off during work and special leave as outlined above should be extended to time necessarily spent travelling to and from the meeting in question. The granting of such leave is also subject to the representative's Department / Office's ability to release the representative, having regard, to the exigencies of official work.

In relation to special leave with pay, a representative will have to submit a written application for the leave to the appropriate manager, giving details of the purpose for which the leave is sought and other relevant information at least **two weeks** (except in exceptional circumstances) before the date on which the leave is due to commence.

**c.f. Department of Health & Children Circular No. S146/11**

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<sup>13</sup> This excludes Branch Executive / Committee Meetings, and it also excludes meetings of sub-committees etc of the National Executive.

## **Leave for Elected Representatives of Local Authorities**

Employees who are members of local authorities may be granted up to a maximum of 12 days special leave per annum without pay to attend ordinary meetings of the authority where the meetings are held during working hours.

In addition, employees who are members of local authorities may be granted up to a maximum of five days special leave per annum without pay to attend further local authority activities, other than ordinary meetings of the authority, that take place during working hours.

Applications for leave of this type must be made in the normal manner to the immediate line manager for approval. Each application will be considered on its merits and in accordance with the exigencies of the service.

Leave may only be granted subject to no additional cost to the HSE being incurred as a result. Cover within the HSE for the absence of the employee while on leave may be arranged in accordance with the HSE's Employment Control Framework and any other relevant policies, procedures, directives or regulations in force during the period.

For further details please refer to the Policy and Procedure regarding Leave for Elected Representatives of Local Authorities (2011).

## Other Types of Leave

### ***Candidate for Interview***

An employee is granted a maximum of six days pay in any one year, to enable him/her to appear before selection boards for posts advertised by Public Appointments Service, a government department, the Health Service Executive and other public health service bodies, or a local authority.

***c.f. [Department of Health Circular No. 10/71](#)***

<b><i>Candidate for Interview</i></b>		
	Candidate for Interview	Paid <b>Maximum of 6 days per year</b>

### ***Ministerial Appointment***

When appointed by a Minister to be a member of any commission, committee or statutory board or a director of a company, an employee will be granted special leave with pay to enable him / her to attend meetings of the body in question.

***c.f. [Department of Health Circular No. 10/71](#)***

<b><i>Ministerial Appointment</i></b>		
	Commission / Committee / Director	Paid

### ***Selection Board***

When invited by the Public Appointments Commission, a government department, the Health Service Executive or a local authority, to act on a selection board, an employee will be granted special leave with pay to enable him to service on the board.

***c.f. [Department of Health Circular No. 10/71](#)***

<b><i>Selection Board</i></b>		
	Panel of Assessors	Paid



## **Shorter Working Year Scheme**

The purpose of the Shorter Working Year Scheme is to permit public health sector employees to balance their working arrangements with outside commitments, including the school holiday periods of their children.

Under the terms of the scheme special leave is available as a period of 2, 4, 6, 8, 10 or 13 consecutive weeks. The leave may be taken as one continuous period, or as a maximum of 3 separate periods, each consisting of not less than 2 weeks and not exceeding 13 weeks in total. While the period of leave is unpaid special leave, those participating in the scheme may apply for special administrative arrangements for the payment of part of the basic salary during the period of special leave.

For further information see HSE HR Circular 023/2015.

## **Section 2 – Pay Arrangements for Unsocial Hours Attendance**

This section deals with the unsocial hours attendance arrangements and payments for such which generally apply in the public health service. The following are included:

- Overtime
- On call/stand by
- Planned Essential Services
- Sleepover
- Saturday work
- Sunday work
- Public holiday
- Night duty
- Shift work
- Twilight Payment

## Overtime

### General Principle governing overtime arrangements

Employees may be paid overtime rates for hours worked in excess of the whole time hours for the category / grade. Overtime is calculated on basic pay only.

### Overtime for Part-time Employees

Part-time employees who work additional hours, i.e. hours over and above their contracted hours on a pre-arranged basis, will be paid at their normal rates until the standard weekly working hours for the grade have been worked.

Part-time employees are entitled to earn overtime payments once they have worked over and above the standard weekly working hours of the whole time equivalent in the given week.

In certain circumstances such as where an employee works beyond the span of his / her shift in emergency or in unforeseen circumstances (i.e. it is not pre-arranged) he/she may earn overtime payments, even if the employee has not worked the hours of the whole time equivalent in their grade.

### Overtime Rates

Overtime rates may vary depending on the category or grade of employee involved.

### *Nursing*

1. Employees with salaries up to €35,000 (inclusive of allowances in nature of pay)- overtime will be paid at time and one half at the first point of the appropriate scale. Note that this formula will not apply to any scale where this provision would result in overtime being paid at less than time at any point on the scale. In the case of such scales, the formula set out in number 2 below will apply.

2. Employees with salaries greater than €35,000 (inclusive of allowances in nature of pay) overtime will be paid at time and one quarter at the individual's scale point.

The divisor for the purposes of calculating overtime is 39hrs.

Overtime will not be payable until 39 hrs are worked and exceeded.

Double time is payable when overtime is worked on a Sunday or Public holiday and Saturday as currently applicable i.e. first four hours on Saturday payable at 1) or 2 above as appropriate.

## **Support Staff**

1. Employees with salaries up to €35,000 (inclusive of allowances in nature of pay)- overtime will be paid at time and one half at the first point of the appropriate scale. Note that this formula will not apply to any scale where this provision would result in overtime being paid at less than time at any point on the scale. In the case of such scales, the formula set out in number 2 below will apply.

2. Employees with salaries greater than €35,000 (inclusive of allowances in nature of pay)-overtime will be paid at time and one quarter at the individual's scale point.

The divisor for purposes of calculating overtime is 39hrs.

The first four hours of additional hours worked from normal start time on Saturday will be calculated as at 1) or 2) above, as appropriate. Further additional hours worked on a Saturday are at double time. The overtime rate for Sundays and Public Holidays is double time.

Double time payment when currently applied in relation to additional hours worked between midnight and the start of the normal day, will remain unchanged (as long as they were in receipt of this payment prior to the Haddington Road Agreement).

## **Non-Consultant Hospital Doctors)**

Overtime which refers to work "on call on site" as required by the employer is paid when the doctor has worked in excess of 39 hours per week on average, over the averaging period of 4 weeks. This means that overtime is paid for those hours worked in excess of 156 hours over a 4 week period. If an NCHD is not rostered for a public holiday and opts not to use a day's annual leave but instead opts for an unpaid day's leave, core pay for that week must not be deducted but overtime will not apply until after 39 hours have been worked in that week.

1. For employees with salaries up to €35,000 (inclusive of allowances in nature of pay)- all overtime will be paid at time and one half at the first point of the appropriate scale.

2. For employees with salaries greater than €35,000 (inclusive of allowances in nature of pay) all overtime will be paid at time and one quarter at the individual's scale point.

The divisor for the purposes of calculating overtime is 39hrs.

All overtime hours worked on a Sunday or Public Holiday are paid the rate of single time extra.

Unrostered overtime approved by the relevant Consultant / Clinical Director will be paid to the NCHD. The employer may query such unrostered overtime

or approval of same. Should a query be made, the NCHD will be notified of same. Payment will be made subsequent to any queries regarding such unrostered overtime being resolved

### ***Clerical/Administrative Grades & EHO's***

1. Employees with salaries up to €35,000 (inclusive of allowances in nature of pay)-overtime will be paid at time and one half at the first point of the appropriate scale except in the case of bullet points below). Note that this formula will not apply to any scale where this provision would result in overtime being paid at less than time at any point on the scale. In the case of such scales, the formula set out in number 2 below will apply.

2. Employees with salaries greater than €35,000 (inclusive of allowances in nature of pay)-overtime will be paid at time and one quarter at the employee's scale point.

Divisor for the purposes of calculating overtime is 37 hrs.

Existing caps on overtime rates apply as follows:

- In the case of employees whose salary equals or exceeds the second long service increment of the Grade V scale, the hourly rate should be calculated by reference to the second long service increment of the Grade V scale;
- The hourly rate for Grades VI, VII and analogues grades should be calculated by reference to whichever is the lesser of individual's salary or the second long service increment of the Grade V salary scale.

Double time is only payable after the first four hours worked on a Saturday or all day Sunday.

Overtime will not be payable until 37 hours are worked and exceeded.

### ***Craftworkers and Craftsmen's Mates***

1. Employees with salaries up to €35,000 (inclusive of allowances in nature of pay)-overtime will be paid at time and one half at the first point of the appropriate scale.

2. Employees with salaries greater than €35,000 (inclusive of allowances in nature of pay)- overtime will be paid at time and one quarter at the individual's scale point.

The first four hours of additional hours worked from normal start time on Saturday will be calculated as at 1) or 2) above, as appropriate. Further additional hours worked on a Saturday are at double time. The overtime rate for Sundays and Public Holidays is double time.

### ***Ambulance Personnel***

The general overtime payment arrangements as set out in national agreements apply to ambulance personnel. Some exceptions however continue to apply (as set out in Haddington Road and Lansdowne Road Agreements) to Paramedics and Emergency Control dispatchers (formerly called Emergency Medical Technicians and Emergency Medical Controllers) . These provide that:

- Those required to work on a rostered day off will receive double time for all hours worked
- Staff employed prior to February 2012 who are in receipt of a Cardiac Allowance shall have the Cardiac Allowance included in the calculation of the hourly overtime rate. The inclusion of this allowance does not apply to new entrants/recipients from February 2012.
- Where appropriate the hourly rate may include the ambulance specific shift allowance,

### **Time off in Lieu**

Where time off in lieu is granted it applies at standard time, i.e. hour for hour.

## On-Call / Standby Allowance and Call-Out Payments

On-call / Stand-by is defined as a period when an employee is scheduled for a designated period to be available for emergency work. An employee on stand-by makes a specific commitment to be available immediately to return to work if requested.

### On-Call Stand-By Payment

A fixed payment is made for the designated period(s) for which the employees make themselves available, e.g. a weekly standby payment.

Call-out arises when employees return to work after their normal working hours.

### NCHDs

<i>Description</i>	<i>On-call Payment <u>Off Site</u></i>	<i>On-Call Payment <u>On Site</u></i>	<i>Call-out Payment Without Standby</i>
<p>NCHDs provide on-call on a rostered basis both off site (at home) and on site (in the hospital).</p> <p>On call off site is defined as a period when the NCHD is scheduled for a designated period to be off site but available for emergency work.</p>	<p>For each period Monday to Saturday half on-call off-site hours up to a maximum of 10 hours are paid at Time +<math>\frac{1}{4}</math>, and the balance is paid at <math>\frac{1}{2}</math>Time.</p> <ul style="list-style-type: none"> <li>NCHDs who are rostered on call off site on Sunday are paid at the rate of <math>\frac{3}{4}</math> time for the first 8 hours worked between midnight on Saturday and midnight on Sunday, and at the rate of <math>\frac{1}{2}</math> time thereafter.</li> </ul>	<p>Paid at the appropriate overtime rate (T<math>\frac{1}{2}</math> for Interns and T<math>\frac{1}{4}</math> for all other NCHD Grades, Single time extra for Sundays and Public Holidays if additional hours exceed 39 hours per week on average in rostered period.</p>	N/A

### Theatre Nurse

<b>Description</b>	<b>On-call Payment Off Site</b>	<b>On-Call Payment On Site</b>	<b>Call-out Payment Without Standby</b>
After hours service provided as follows: Monday to Friday Saturday Standby Sunday and Public Holiday Standby	Standby fee – fixed standby fee from Monday to Friday.  Enhanced standby fee for Saturday, Sunday and Public Holidays, c/f Consolidated Salary Scales  On-call over weekend – where no roster duty available appropriate rate is divided by 12 then multiplied by the number of hours available (in this scenario time will not be given back in lieu).	Fee per operation per two hour 17.00 – 22.00 - rate payable dependant on length of operation. Enhanced fee for operations after 22.00.  c/f Consolidated Salary Scales	Enhanced fee per operation, c/f Consolidated Salary Scales

### Physiotherapists

<b>Description</b>	<b>*On-call Standby Payment</b>	<b>Call-out Payment With Standby</b>	<b>Call-out Payment Without Standby</b>
-After hours service provided as follows: - Monday to Friday - Saturday Standby - -Sunday and Public Holidays	Standby fee – fixed standby fee from Monday to Friday. Enhanced standby fee for Saturday, Sundays and Public Holidays, c/f Consolidated salary scales	Fee per call (paid per half hour), c/f Consolidated salary scales	Enhanced fee per call (paid per hour), c/f Consolidated salary scales

\*A ceiling applies to the total amount on-call that a hospital should pay per week.



## Radiographers

HSE HR Circular 006/2012 refers

<b>Description</b>	<b>On-call Standby Payment (On call off-site)</b>	<b>Call-out Payment With Standby</b>	<b>Call-out Payment Without Standby</b>
After hours service where required is provided as follows: <ul style="list-style-type: none"> <li>- 8pm to 8am Monday to Friday</li> <li>- Saturday</li> <li>- Sunday and Public Holidays</li> </ul>	Standby fee – fixed payment which varies according to time period. Standby is provided, c/f Consolidated salary scales. The standby payments apply per 12 hour period with pro rata to apply thereafter.	Paid at appropriate out of hours hourly rate. First call out which lasts less than one hour in duration will attract a minimum of one hours pay. Call thereafter are paid per hour or part thereof.	N/A

Note: As provided for in LCR20232, an overtime rate of time and ½ is applied to radiographers in circumstances where all other possible staffing options had been explored in the first instance without success, solely in the context of filling gaps arising from the introduction of the extended day and only between the hours of 8am to 9am and 5pm to 8pm. It is emphasized that this is very much as a last possible option and only in the above circumstances. Such arrangements must be cognizant of and consistent with general HSE policy on such matters (CERS memo 27/9/2012).

## Medical Laboratory Scientists

HSE HR Circular 001/2011 refers

<b>Description</b>	<b>On-call Standby Payment</b>	<b>Call-out Payment With Standby</b>	<b>Call-out Payment Without Standby</b>
After hours service provided as follows: <ul style="list-style-type: none"> <li>-8pm to 8am Monday to Friday</li> <li>- Saturday 12 am until Sunday 12am and Public Holidays</li> </ul>	Standby fee – fixed payment which varies according to time period. Standby is provided, c/f Consolidated salary scales. The standby payments apply per 12 hour period with pro rata to apply thereafter.	Paid at appropriate out of hours rate based on time worked on a pro rata basis. First callout will attract one hour's pay if less than one hour.	n/a

## Ambulance

<i>Description</i>	<i>On-call Standby Payment</i>	<i>Call-out Payment With Standby</i>	<i>Call-out Payment Without Standby</i>
After hours service	Standby fee (1/6 of flat rate for each hour on-call).	Paid at appropriate overtime rate per hour worked.	N/A

## Planned Essential Services

### Public Health Nurse

<b>Description</b>	<b>Payment</b>
Essential weekend / Public Holiday Service	Fee per case
First call on Saturday and first call on Sunday	Fixed payment
Each subsequent call on Saturday and Sunday	Fixed payment
Payment in lieu of time off for emergency work	Fixed payment

## Sleepover

### Definition of Sleepover / Sleep in

'Sleepover' / 'Sleep in' applies where the provision of care occurs in a residential setting on a 24 hour, 7 day per week basis. Employees are required to sleepover / sleep in at their work location. Sleepover / sleep in refers to a continuous period of 8 hours or more between the hours of 11pm and 8am.

### Payment System

A fixed monetary amount as set out in the Department of Health consolidated salary scales is payable to employees specifically requested to provide a sleep over / sleep in service.

**For further information see HSE HR Circular 27/2014.**

## Unsocial Hours Premium Payments

As the health service operates seven days a week on a twenty-four hour basis, many categories of employees are required to work hours outside of the standard working hours, i.e. 8.00am - 8.00pm Monday to Friday<sup>14</sup> These hours are worked as part of the contracted weekly working hours (e.g. 39 hours for nursing employees) and are described as “unsocial hours” and attract premium rates of pay. Set out below are the periods of time which usually attract premium payments:

- Saturday work
- Sunday work
- Public Holidays
- Night Duty
- Shift Work
- Twilight payment

In determining the appropriate premium payment, the rule normally applied in the health service is that the starting time of the roster determines the premium payment applicable to the hours worked

Premium pay calculations are based on basic pay rates only. They do not apply to hours worked on an overtime basis.

### Saturday Work

Saturday work is normally defined as any roster commencing between midnight on Friday and midnight on Saturday. An employee who works **a 5 over 7 roster** and is scheduled to work on Saturday is entitled to a Saturday allowance. This is a fixed amount and is payable irrespective of the number of hours worked.

Home helps who work less than 4 hours on a Saturday receive 50% of the support employees’ Saturday allowance and those who work more than 4 hours receive the full allowance.

### Sunday Work

Sunday work is normally defined as any roster which commences between midnight on Saturday and midnight on Sunday. An employee who works **a 5 over 7 roster** and is scheduled to work on Sunday is entitled to single time extra for each hour worked.

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<sup>14</sup> As agreed under the Framework for Implementation of Clause 30.4 of T2016 (see HSE HR Circular 003/2009)

### **Public Holiday**

Public holiday work is normally defined as any roster which commences between midnight on the eve of the public holiday and midnight on the public holiday.

An employee who works a **'5 over 7' roster** and is scheduled to work on a public holiday is entitled to single time extra for each hour worked.

Where the public holiday falls on a Saturday, the Saturday allowance is not payable as public holiday premium payments apply.

For NCHDs public holiday work is any hours worked between midnight on the eve of the public holiday and midnight on the public holiday.

### **Night Duty (HSE HR circular 003/2012)**

Night duty, which is normally defined as hours worked between 8.00 p.m. and 8.00am, attracts a premium payment of time plus  $\frac{1}{4}$ . This premium is only payable to employees rostered for duty through the night, i.e. those who worked at least 3 hours between midnight and 7.00 a.m. It does not include twilight shifts that extend into night duty hours (e.g. a roster from 4pm – midnight would not attract night duty premium).

In the event of an employee working on a Sunday or Public Holiday, the night duty premium is paid on the basis of the basic salary of the employee and not on the basic plus unsocial hours allowance for that day.

The payment of night duty premium for NCHDs is set out in HSE HR Circular 003/2014. Under recent agreed changes to the NCHD contract of employment, the payment of night duty premium may be extended from 5pm to 8am should the period of night duty commence at 5pm and run through the night.

### **Shift Work**

Shift work occurs where employees work in rotation so that a function can operate beyond normal daily or weekly hours. Workers with a starting time variation of at least four hours and a difference of at least twelve hours between the earliest and the latest finish should be paid a shift allowance. It should be noted that where a shift premium is paid, Sunday Allowance is applied but Night Duty allowance and Twilight allowance do not apply.

### **Twilight Payment**

All grades currently rostered for hours from 8pm until the end of the day shift and in receipt of the time and one sixth twilight payment are paid this premium for the period.

Nurses rostered for duty between 6pm and 8pm in acute hospitals where verification is in place for the transfer of tasks process in accordance with HR Circular HR Circular 003/2016 and HR Circular 015/2016. will be paid the twilight premium time of time and one sixth.

# Section 3 - Incremental Credit and Starting Pay on Promotion

## Incremental Credit

### **Section A - General Principles**

- New appointees to any grade start at the minimum point of the scale. Incremental credit will be applied for recognised relevant service in Ireland and abroad (Department of Health Circular 2/2011). Incremental credit is normally granted on appointment, in respect of previous experience in the Civil Service, local authorities, health service and other public service bodies and statutory agencies. This provision is not affected by a break in service.
- Annual increments are normally granted to employees, subject to satisfactory service.
- Increments are normally postponed in respect of leave without pay for a period exceeding 28 days (e.g. during special leave without pay for domestic reasons or during unpaid sick leave) or for the period a person is on a career break. However increments are not deferred during periods of unpaid parental leave, unpaid maternity leave and unpaid adoptive leave.
- Employees who have availed of the scheme relating to special leave with nominal pay in order to work in under-developed countries are entitled to incremental credit in respect of this period, provided the duties performed overseas are broadly similar to present duties. One increment is granted in respect of each year worked, up to a maximum of three increments (Circulars S146/30, 31-08-76).
- Temporary employees enjoy the same incremental credit arrangements as their permanent counterparts.

### **Long Service Increments (LSI)**

Where applicable the first LSI is payable to employees after three years at the maximum of the scale. The second LSI (if applicable) is payable after a further three years and the third LSI (if applicable) is payable after a further three years.

*The rule governing access to LSIs in respect of experience gained outside the Irish public health service is as follows:*

An employee's aggregate recognised service is reckonable for the purposes of entitlement to LSIs i.e. s/he will acquire an entitlement to an LSI after the same number of years service as his/her equivalent in the Irish public health service. A newly appointed staff nurse, for example, who has 14 or more years' recognised service will be entitled to be placed on the LSI. The requirement that the employee was in receipt of the maximum point of the salary scale for three years no longer applies (**HSE HR Circular No. 004/2009**)

### **Part-time Employees**

Part-time employees may also progress along the incremental salary scale on the same basis as permanent whole time equivalent employees upon completion of satisfactory service. Therefore incremental progression will occur after 52 continuous weeks' service i.e. on the anniversary of the employee's appointment date. In the case of employees who provide relief services on an "if and when required basis", any week in which no hours were worked is normally counted for incremental credit purposes in accordance with the arrangements which apply to all other employees with fixed contracted hours. (Refer to Corporate Employee Relations Services Memos of 26/10/2011 and 3/11/2011).

## **Section B – Special Arrangements**

### **Nurses**

#### ***Incremental Credit on Appointment***

All new entrants to the public service are to be placed on minimum point of the scale unless they have previous relevant experience in private sector/abroad (Department of Health Circular 2/2011). Full incremental credit may be granted on appointment in respect of all previous genuine nursing experience in Ireland and abroad.

Nurses will be required to satisfy the following validation criteria:

1. Letter from previous employer in Ireland confirming service and relevant salary point.
2. Statement of employment details from employers based outside of Ireland.
3. Up to date C.V.

Students will receive incremental credit in respect of the 36 week placement period (HSE HR Circular 005/2016). On successful completion of the Degree Programme and registration with the Nursing and Midwifery Board of Ireland (NMBI) and on commencement of employment in the public health service graduates will be remunerated at the first point of the employees nurse scale for a period of sixteen weeks taking into account the incremental credit applied for their 36 week placement.

Incremental credit for experience as a State Enrolled Nurse in the U.K. should be granted on appointment as a nurse on the basis of one increment for every three years service as a State Enrolled Nurse with the seventh incremental point being given for 20 years service ([HSE HR Circular No. 18/2006](#)).

Health service employees who are sponsored to undergo the nursing degree programme will, upon appointment as a staff nurse, be assimilated on the nearest monetary point of the staff nurse scale to their existing salary ([HSE HR Circular No. 11/2008](#)).

### **Post Registration Courses**

Incremental credit may be granted to nurses undertaking approved courses by the Nursing and Midwifery Board of Ireland on a full-time basis, up to a maximum of *two* increments, provided the employee obtains the qualification within a reasonable period of time.

### **Note**

***This provision only applies once during a nurse's career, irrespective of the number of full-time courses s/he undertakes.***

### **Changing Disciplines**

An employee is entitled to incremental credit in respect of previous service in another nursing discipline. For example, a psychiatric nurse who transfers to general nursing is entitled to incremental credit in respect of service as a psychiatric nurse.

### **Clerical/Administrative Grades**

Clerical and administrative grades are entitled to incremental credit on the same basis as set out above under "General Principles". In this context, 'previous relevant experience' refers to previous service in a similar grade in the Civil Service, Local Authority Service, Health Service and other public service bodies and statutory agencies, in Ireland or abroad.

### **Non-Consultant Hospital Doctors**

- a) Incremental credit is granted to the NCHD in respect of:
  - i) previous employment as an NCHD in Ireland in the public service or in a recognised training post.
  - ii) time spent gaining a B.Sc degree in an appropriate specialty (Pathology, Anatomy, Physiology),
  - iii) time spent gaining a postgraduate qualification (post completion of internship) provided that during such time (s)he was actively engaged in hospital work,
  - iv) time spent working as a junior lecturer in anatomy.
  - v) time spent as a University Demonstrator between the completion of internship and appointment to a non-consultant medical post will be regarded as being equivalent to hospital experience for the purpose

of determining an NCHD's entry point to the scale and his / her eligibility for appointment to registrar grade.

And subject to the provisions of the Public Service Stability Agreement 2013-2016.

- b) In relation to the appointment of a doctor to the post of registrar, he /she should have at least 24 months post qualification (completion of internship)
- c) experience before being eligible for such an appointment.
- d) An NCHD will not be regarded as having incremental credit or previous experience at Registrar level unless they have worked for at least three months in a role which requires them to undertake the full range of duties associated with a Registrar post.
- e) An NCHD who takes up appointment as a Senior House Officer having previously held a Registrar post will be placed on the equivalent point of the SHO salary scale.
- f) Periods spent in vocational training schemes for general practice are reckonable for incremental credit.
- g) Locum NCHDs shall be granted incremental credit on the basis of previous recognised hospital experience.
- h) An NCHD who was employed in an EU Member State will be granted incremental credit for such experience. In such cases, incremental credit will be evaluated on the basis of the NCHD's date of registration to practice as a doctor and subsequent experience.
- i) An NCHD who was employed in a state (other than an EU member state) prior to taking up appointment in Ireland may be granted incremental credit where the experience was obtained in a recognised teaching hospital. Satisfactory evidence of same must be provided by the NCHD.
- j) Up to two years incremental credit shall be granted to Maxillo-facial trainees based on previous postgraduate dental experience.
- k) Assimilation to the Specialist Registrar salary scale shall be on the basis of completed years of service as follows:

Year	Specialist Registrar Point of Scale
2 <sup>nd</sup> / 3 <sup>rd</sup> SHO	1 <sup>st</sup> Point
4 <sup>th</sup> SHO and 1 <sup>st</sup> Registrar	2 <sup>nd</sup> Point
2 <sup>nd</sup> Registrar	3 <sup>rd</sup> Point



3 <sup>rd</sup> Registrar	4 <sup>th</sup> Point
4 <sup>th</sup> Registrar	5 <sup>th</sup> Point

- l) NCHDs appointed to posts of Senior Registrar who have been employed as Registrars for three years or more will be granted one increment for each year or part of a year employed in excess of the first three years. This shall be up to a maximum of three increments over and above the first point on the Senior Registrar scale.
- m) Incremental credit is not granted to NCHDs in respect of:
- i) Service as locum general practitioner,
  - ii) Service in a non-training post with the Irish Blood Transfusion Service.

### **Therapy Grades**

Full incremental credit is granted to therapy grades for previous professional experience (both in the private and public sector), in Ireland and subject to certification, abroad. This arises from the recommendations of the ***Report of the Expert Group on Various Health Professions*** (2000).

### **Dentists**

Full incremental credit is granted in respect of all post-graduate experience both in the public and the private sectors on appointment.

### **Dental Nurses**

Full incremental credit is granted to Dental Surgery Assistants for appropriate experience in the private sector. Such credit can only be accrued from the date the national certificate for dental surgery assistants (UK) or equivalent is awarded.

### **Social Care Workers (Intellectual Disability Services)**

Social Care Workers in the Intellectual Disability Service may not proceed beyond the seventh point of the salary scale until s/he has obtained the appropriate professional qualification.

### **Pharmacists**

On permanent appointment, an employee is entitled to full incremental credit in respect of previous recognised service.

### **Pharmaceutical Technicians**

Incremental credit may be granted in respect of previous service in both the public and private experience

### **Assistant Technical Services Officer**

Incremental credit is granted in respect of relevant post-graduate experience as follows:

- \* to qualify, an employee must have in excess of five years' experience on the date of his/her appointment
  - \* the qualifying period is not recognised for the purpose of awarding increments; an additional increment is awarded for each year worked thereafter.
- The Technical Services Officer must confirm, in writing, that the employee's post-graduate experience is relevant to the current post
  - The above arrangement *does not apply* where:
    - \* an employee is in receipt of a substitution allowance;
    - \* an existing permanent officer is appointed to the post.

### **Senior Assistant Technical Services Officer**

Incremental credit is granted in respect of relevant post-graduate experience as follows:

- \* to qualify, an employee must have in excess of eight years experience on the date of his/her appointment
  - \* the qualifying period is not recognised for the purpose of awarding increments; an additional increment is awarded for each year worked thereafter.
- The Technical Services Officer must confirm, in writing, that the employee's post-graduate experience is relevant to the current post.

The above arrangement *does not apply* where:

- \* the employee is in receipt of a substitution allowance;
- \* an existing permanent officer is appointed to the post.

## Starting Pay on Promotion

Starting Pay and Promotion Rules are governed by the following provisions (refer to Department of Health Circular 10/1971):

- (i) Where the same salary scale applies to the employee's existing office and the office to which he is being newly appointed, he/she shall remain on the same point of the scale and may retain his/her incremental date.
- (ii) Where the minimum of the new salary scale is greater than existing pay by an amount greater than one increment on the new scale, the employee shall enter the new scale at the minimum – the date of promotion to be the new incremental date.
- (iii) Where the minimum of the new salary scale is greater than existing pay by an amount equal to one increment on the new scale, the employee shall enter the new scale at the minimum – he/she may retain his/her incremental date. .
- (iv) Where the minimum of the new salary scale is greater than existing pay by an amount less than one increment on the new scale, the employee may enter the new scale at the minimum plus one increment – the date of promotion shall be the new incremental date.
- (v) Subject to subparagraph (i) above, where the minimum of the new salary scale is equal to existing pay, the employee may enter the new scale at the minimum plus one increment – he/she may retain his existing incremental date, if any.
- (vi) Subject to sub-paragraph (i) above, where the minimum of the new scale is less than existing pay, the employee may enter the new scale at the point nearest but not below existing pay plus one increment, and
  - a) where the point of entry on the new scale is equal to existing pay, he/she may retain his/her incremental date, if any,
  - b) in any other case, the date of promotion shall be the new incremental date.
- (vii) Where an employee to whom sub-paragraph (ii) (in cases only where the minimum of the new scale exceeds existing pay by an amount less than two increments in the new scale), (iii), (iv), (v) or (vi) above applies, has been on a fixed salary or on the maximum of his/her existing salary for at least three years at the date of his/her promotion or new appointment, he/she may enter the new scale in accordance with the appropriate provision and with a further additional increment, but in that case, the date of promotion or new appointment will be the employee's new incremental date.
- (viii) Where after a person has been promoted, and his/her salary has been determined in accordance with sub-paragraphs (i) to (vii) above, the salary or salary scale applicable to either the employee's former office or his new office, or both, is revised with effect from a date which is earlier than the date of the promotion, the commencing salary shall, subject to sub-paragraphs (ix) and (x) below, be re-determined in accordance with these rules and by reference to the revised salaries or salary scales.
- (ix) Where, in a case to which sub-paragraph (viii) applies, the salaries or salary scales of both the employee's former office and his new office are revised with effect from different dates not more than six months apart,

but only one of the revisions is made effective from a date which is earlier than the date of the promotion or new appointment, the commencing salary shall, subject to sub-paragraph (x), be re-determined as if both revisions had been effective on the date of promotion.

- (x) Nothing in sub-paragraphs (i) to (ix) shall be applied so as to enable an employee to have a salary in excess of the maximum salary for the office to which he is promoted or newly appointed.

### **Nurses**

The normal pay on promotion rules as outlined above apply to nurses, except in circumstances where the nurse might be financially disadvantaged on promotion due to loss of their qualification or location allowance, e.g.: when promoted from CNM2 to CNM3. In these cases the provisions of [HSE HR Circular 23/2006](#) as outlined below would apply.

Clinical Nurse Managers 2 who are in receipt of an allowance and who are promoted to Clinical Nurse Manager 3 or Assistant Director of Nursing will be assimilated on a person to holder basis in the following manner:

Existing substantive salary plus a sum equivalent to the Specialist Qualification or Location Allowances if they are in receipt of one or the other of these allowances.

The normal application of [Department of Health Circular No.10/71](#) provisions will then apply.

In respect of individual nurses who were promoted prior to 1<sup>st</sup> February 2006:

Clinical Nurse Managers 2 who are in receipt of a Specialist Qualifications / Location Allowance and who are promoted to Clinical Nurse Manager 3 or Assistant Director of nursing will be assimilated on a personal to holder basis to the higher scale in the following manner:

Existing substantive salary plus a sum equivalent to the Specialist Qualification or Location Allowances if they are in receipt of one or the other of these allowances.

The normal application of the [Department of Health Circular No. 10/71](#) provisions will then apply.

c.f. [HSE HR Circular 023/2006](#)

### **Mental health nurses**

Mental health nurses who are promoted for example from staff nurse to CNM I or from CNM I to CNM II have the difference between the maximum of the current scale and the scale to which the nurse is being promoted added to their existing salary before they are assimilated onto the new scale using the pay on promotion rules outlined in [Department of Health Circular No. 10/71](#).

c.f. Department of Health and Children Circular No. S100/94 issued 11 August 1969

### **Therapy Grades**

A set differential applies to therapy grades upon promotion (Dieticians, Occupational Therapists, Physiotherapists and Speech and Language Therapists, Orthoptists and Chiropodists). The value of the differential is added to the employees current salary and rounded to nearest salary point on the higher scale. This arrangement supersedes the instructions on starting pay and promotion as outlined in [Department of Health Circular No.10/71](#)

c.f. [Department of Health and Children Circular No. 152/2000](#) issued 18 December 2000.

### **Craft Workers**

Where an employee is promoted to any grade above his/her existing grade he/she may move to the corresponding point on the new scale provided he/she has completed at least five years service as a qualified craft worker in the health service.

In any other case he/she shall be placed on the minimum of the new scale or receive 50% of the differential between his/her point on the existing scale and the corresponding point on the new scale adjusted up thereafter to the nearest scale point, whichever is the most favourable.

## **Temporary Appointments**

Temporary appointments may be made to cover periods of leave or to cover vacancies (see HSE HR Circular 17/2013 and HSE HR Circular 008/2016).

The rules governing temporary appointments are as follows:

- No payment is made for a temporary appointment of less than three months. This includes periods which cover annual leave, sick leave, special leave or other leave, or to allow for a recruitment process, or the appointment from a panel, following a retirement or resignation.
- Temporary appointments in excess of three months will attract additional remuneration and the terms and conditions of the higher/temporary post for the duration of the period. The pay and assimilation arrangements for such staff should be the same as those applying to employees who have been permanently appointed.

- All appointments must be made in accordance with the Commission for Public Service Appointments Code of Practice.

## **Exceptions to the general rules**

### ***Support Staff Grades***

Where an employee in a support staff grade performs his/her duties at a higher band within the support staff grading structure on a short term basis, they will be paid the rate for the job at the outset. This will also apply to situations where support employees are engaged in support duties on a short term basis which are not of a supervisory or managerial nature.

(Memo issued by HSE Corporate Employee Relations, 17th October 2013, Memo 14th July 2014 and Memo 19th May 2015 refers).