

21st October 2015

**To: Each Member of the Directorate and Leadership Team HSE
Each Hospital Group CEO
Each Chief Officer, CHO
Each Assistant National Director, HR
Each Employee Relations Manager
Each CEO Section 38 Agency**

Re: HR Circular 023/2015 – Shorter Working Year Scheme (to replace Circular 018/2009)

Dear Colleague,

1. I refer to the Shorter Working Year Scheme and confirm that approval has been granted to operate the Scheme in 2016. This Scheme will operate on the previous terms and conditions with the following amendment: all categories of employees are encompassed by this Scheme and will be eligible to apply to avail of leave in 2016. The provisions outlined in HSE HR Circular 018/2009 in relation to exempted grades will cease to apply.

General

2. The purpose of the shorter working year scheme is to permit HSE 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 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. The period of leave shall be **unpaid special leave** (see paragraph 13)

Managers are required to facilitate the implementation of this Scheme and to grant applications for special leave as far as possible. While due consideration should be given to all applications, the needs of the service may require that in some cases the employee's application will be refused. The operation of the scheme is subject to the operating requirements of the organization not being affected adversely; in particular that essential service provision is not undermined. It is also important that the absence of staff on special leave does not place an undue burden on the staff remaining in the workplace. Managers are required to consider the work patterns and anticipated leave needs of those remaining in the workplace when considering whether an application will impact upon operating requirements.

Eligibility to apply

3. To be eligible to apply for unpaid special leave, an employee must have completed their probationary period.

Annual leave and public holidays

4. Subject to the provisions of the Organisation of Working Time Act 1997 (“the Act”), the annual leave allocation of a participant may be reduced to take account of the period of special unpaid leave.

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

6. Annual Leave - Full Time Staff: Persons serving in a full time capacity who avail of special leave will, in the absence of any other additional unpaid leave, be entitled to a minimum of 20 days annual leave. Staff with an annual leave allowance in excess of 20 days will have their allowance reduced on a pro rata basis. However it must be noted that if no other unpaid time off is taken, the officer will still receive 4 working weeks (20 days) as a statutory entitlement.

7. Annual Leave - Worksharing Staff: Worksharers who avail of special leave will also have their annual leave entitlement calculated in accordance with the provisions of the Act.

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

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

9. Public Holidays - Worksharing Staff: For worksharing staff who avail of special leave, the employer shall determine in accordance with the Act which of the following an employee is entitled to:

- a) $\frac{1}{5}$ of their weekly total of hours off within one month;
- b) $\frac{1}{5}$ of their weekly total of hours to be added to their annual leave;
- c) $\frac{1}{5}$ of their weekly pay (equal to $\frac{1}{10}$ of their fortnightly pay).

Restriction on taking leave

10. The starting date for special leave will be agreed by the employee with local management (see paragraph 23), having regards to business /service demands, including the need to train replacement staff if any. Subject to the discretion of management, participants will not be granted leave (paid or unpaid) in the four weeks immediately prior to and following the period of special leave. This restriction will not apply to leave, the granting of which is governed by statute, such as maternity, adoptive, parental or carer’s leave.

11. Staff who commence maternity or adoptive leave during special leave retain their normal statutory entitlements.

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

Arrangements for the payment of salary

13. As stated in paragraph 1, the period of special leave is **unpaid**. However, those participating in the scheme may apply for special administrative arrangements for the payment of part of basic salary during the period of special leave, provided that an application in writing by 30th November is made in the year prior to the year in which it is proposed to avail of the special leave. There may be some variations between salary payments in different periods of the year but every effort will be made to ensure equal payments of basic salary. If a person availing of these special administrative provisions in respect of pay takes other unpaid leave during the twelve month period, then the pro rata rate of salary will be adjusted accordingly.

Persons availing of the special administrative arrangements for the payment of salary may not vary their working hours during the same year. Each participant is required to give an undertaking that any overpayment that may arise from their participation in the scheme will be repaid to the HSE not later than the last day of the tax year, 31 December, unless otherwise agreed.

14. Staff should note that, under PRSI rules, a person availing of special leave is not earning during the period of leave and is not, therefore, making PRSI contributions¹. Staff availing of special leave should contact the Department of Social Protection to clarify their individual position. It is the responsibility of the person availing of the scheme to make arrangements to ensure that any voluntary contributions (e.g. health insurance, savings plans, etc.) normally deducted from salary continue to be paid.

Social Welfare - Family Income Supplement

15. Persons in receipt of Family Income Supplement who intend to avail of special leave must contact the Department of Social Protection to clarify their entitlements.

Reckonable service

16. The period of special leave will reckon for the purposes of increments and seniority. **The period of special leave will not reckon for pension purposes.**

Sick Leave

17. Participants may not avail of sick leave during the period of special leave.

Restriction on Career Breaks

18. A person taking special leave who avails of administrative arrangements for the payment of salary over twelve months may not take a career break in the same year in which s/he avails of special leave.

¹A person paying Class A PRSI requires 39 insured weeks in the relevant tax year to qualify for benefits. The relevant tax year for a PRSI claim is the last complete tax year before the start of the Benefit Year. (The Benefit Year starts on the first Monday in January).

19. However, in exceptional circumstances, at the discretion of the line manager, a career break may be granted in the same year in which a person avails of special leave. Any overpayment which may have arisen as a consequence of taking special leave would have to be repaid to the HSE prior to the commencement of the career break.

Promotion

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

Filling of ensuing vacancies

21. Management should normally reallocate or re-organise work or staff, where any vacancy arises under this scheme. The filling of vacancies arising through persons availing of special leave, will be subject to current Government policy and organisational arrangements on public service numbers

22. **Where specifically sanctioned**, the recruitment of staff on a temporary basis to replace staff availing of special leave should be in accordance with such procedures for the recruitment of staff to the HSE and must be carried out on the basis that the HSE remains within the Paybill Management and Control Framework. Temporary staff should not be retained for a period greater than a year. In the case of retired employees appointed as temporary replacement staff, pension abatement arrangements, as appropriate, will apply. Where staff return from a career break under DOHC circular S/146/99 and associated letters, dated 16 March 1984, 27 November 1984, 26 August 1987, 30 March 1989 and 7 November 1990, for educational purposes to fill a vacancy², such service will be regarded as a temporary suspension of their career break and will reckon for purposes of seniority, increment and superannuation purposes. An employee returning in such circumstances will return at the grade at which s/he was serving prior to the career break, if appointed to a vacancy at the same grade.

Applications

23. Persons wishing to avail of special leave must apply each year to participate in the scheme. Applications for special leave under this scheme shall generally be made in writing and be received by relevant HR Department by 30th November in the year prior to that in which it is proposed to avail of special leave. Persons applying to participate in the scheme will be required to state the period and time of the year that they wish to apply for special leave. Applicants must understand that business /service needs may preclude the granting of the special leave that they have applied for and they must, in such circumstances, be prepared to discuss possible alternatives, if feasible (paragraph 27 below refers).

24. Managers may, at their discretion, indicate that they will consider applications for periods of special leave of up to eight weeks at any time from a person who has not applied to participate in the scheme in accordance with paragraph 23, subject to the person not availing of the special administrative arrangements in respect of pay. Any such applications should be in writing as soon as is reasonably practicable, but not later than six weeks prior to the proposed commencement date of the period of special leave.

² Staff on a Special Incentive Career Break under HSE HR Circular **017/2009** are not eligible to fill vacancies

25. Managers may decide, where not all applications can be granted, to set out the grounds on which priority will be given to applications, for example, priority to be given to staff who have not previously availed of special leave under this scheme. Managers have discretion to refuse some or all of the applications made.

26. Managers may refuse an application for special leave under this scheme due to service requirements which include the following circumstances:

- the person has specialist or hard-to-replace skills,
- the person works in a location or area where an absence would be difficult to accommodate for the proposed period of special leave,
- where there are a number of applications from a particular location or work area for special leave under this scheme,
- where there are or will be a number of persons on reduced work hours or other types of leave, including statutory leave, in that location or area under other schemes, or
- any other stated reason.

27. Managers should consider, in advance of refusing any application, whether an application for a different period of special leave or a different time of the year would be acceptable and, if so, discuss changing or deferring the period of special leave with the applicant. Where applicable, Heads of Business / Service Units may, in consultation with relevant staff, wish to arrange for staggered periods of special leave (e.g. over the summer months).

28. Persons whose applications are accepted will be required to confirm, in writing, that they wish to avail of the relevant period of special leave without pay. It will not be possible for a participant to withdraw or to alter an application for the scheme once that undertaking has been given if they have applied for special salary arrangements. An offer of participation must be accepted within five working days of the offer being made to a person. Failure to do so will be considered as a refusal. An offer may then be made to another person.

Queries

Employees and Managers are invited to address any queries that they may have regarding these arrangements to their local HR/Employee Relations Departments.

Queries from HR/ER Departments may be referred to Employee Relations Advisory Services, HR Directorate, HSE, 63/64 Adelaide Road, Dublin 2. Tel: 01-6626966, E-mail: info.t@hse.ie

Yours sincerely,



Rosarii Mannion

National Director of Human Resources

Appendix A

Annual Leave Calculations for Staff availing of the Shorter Working Year scheme

Annual Leave - Full Time Staff

(1) a person who has 22 days annual leave and avails of thirteen weeks unpaid special leave, would have their annual leave entitlement reduced by 25% or 5.5 days to reflect the period of unpaid special leave. As the pro rata reduction would leave the person with less than their statutory minimum they will still receive 20 days.

The officer will still have worked for more than 1365 hours and therefore entitled to 4 working weeks (20 days)

$(6.95 \text{ hours per day} * 5 \text{ days} * 39.18 \text{ weeks} = 1361.505 \text{ hours in the year.})$

Plus payment for the August Bank holiday = total of 1368.455 hours.)

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

Annual Leave - Worksharers.

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

- (a) 4 working weeks in a leave year in which the employee works at least 1,365 hours (unless it is a leave year in which he or she changes employment);
- (b) one third of a working week per calendar month that the employee works at least 117 hours;
- (c) 8% of the hours an employee works in a leave year (but subject to a maximum of 4 working weeks);
- (d) pro-rata the holiday entitlement of an equivalent full-time employee in that grade.
(Option (d) is not part of the Organisation of Working Time Act 1997)

In calculating the number of days' holidays to which an employee is entitled for the purposes of (a) (b) and (c) above, employers should include all hours worked including extra attendance, rostered time spent on any form of paid leave (such as maternity leave, adoptive leave, paternity leave, force majeure parental leave, marriage leave, paid study leave and paid examination leave), as well as holidays and public holidays taken during the calculation period. Certain unpaid leave is also counted (such as maternity leave and adoptive leave).