



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive

Office of the National Director of Human Resources  
Health Service Executive  
Dr. Steevens' Hospital  
Dublin 8

Tel: (01) 635 2319  
Fax: (01) 635 2486  
E-mail: nationalhr@hse.ie

## **HSE HR Circular 25/2008**

**To: Each National Director, HSE  
Each Asst. National Director Human Resources, HSE  
Each Asst. National Director Employee Relations, HSE  
Each Network Manager, HSE  
Each Local Health Manager, HSE**

**11<sup>th</sup> November 2008**

**Re: Pregnancy - Related Sick Leave**

**Dear Colleague,**

1. I refer to the European Court of Justice ruling (case C-191/03) and Labour Court determination (LCR061) on a case taken by a HSE employee in relation to the application of sick leave regulations to staff who are absent on pregnancy related sick leave.
2. While the ruling/determination upheld the HSE's position it provided that (i) during pregnancy-related illness "the amount of payment made is not so low as to undermine the objective of protecting pregnant workers" and (ii) if the officer is absent due to ill-health following maternity leave, the effect of offsetting absences due to pregnancy-related illness must not result in her receiving an amount "that is lower than the minimum amount to which she was entitled during the illness which arose while she was pregnant".
3. In view of the ruling of the European Court of Justice and the Labour Court determination the HSE has agreed to the following sick leave arrangements for officers and general support staff.

**4. (i) Pregnancy-related illness occurring before maternity leave commences**

An employee who is medically certified as unfit for work *due to pregnancy-related illness* prior to the commencement of maternity leave and who has exhausted her entitlement to half pay in accordance with the normal sick pay rules will continue to receive sick pay at half pay<sup>1</sup> for the duration of her illness until maternity leave commences.

**(ii) Illness occurring post maternity leave**

Following maternity leave, where an employee is unfit for work due to ill health her entitlement to sick pay at half pay<sup>1</sup> will be extended by the period of absence due to pregnancy-related illness which occurred prior to her maternity leave provided she had not benefited from extended pregnancy –related sick leave at half pay in accordance with (i) above.

**e.g.** If the employee had been absent due to pregnancy-related illness for two months prior to maternity leave and is subsequently absent due to illness following maternity leave, her entitlement to sick pay at half pay<sup>1</sup> will be extended by two months provided she had not benefited from pregnancy-related sick leave at half-pay in accordance with (i) above.

**(iii)** If, at the end of the period of sick leave on half-pay extended in accordance with point 4(i) and (ii) above the employee is still medically unfit for work the normal considerations apply in respect of ongoing pay arrangements.

- 5.** This amendment to the sick leave arrangements applies only to pregnancy-related sick leave during pregnancy. Illnesses occurring during pregnancy are not necessarily pregnancy-related. Where doubt arises, the matter may be referred to Occupational Health for advice.

Yours sincerely,



---

**Sean McGrath**  
**National Director of Human Resources**

---

<sup>1</sup> The Amount of sick leave at half pay to which the employee is entitled is inclusive of social welfare payments.