



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

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

All Queries:
Corporate Employee Relation Services,
Human Resource Directorate,
HSE,
63 – 64 Adelaide Road,
Tel: 01-6626966.

HSE HR Circular 001/2011

4th March, 2011.

**To: Each Member of Management Team, HSE;
Each Regional Director of Operations, HSE;
Each Assistant National Director of Human Resources, HSE;
Each Employee Relations Manager, HSE;
Each CEO directly funded Voluntary Hospital/Voluntary Agency.**

Re: Laboratory Modernisation – Public Service Agreement 2010 – 2014.

Background

I refer to previous communications from HSE-Corporate Employee Relations Services in relation to the introduction of revised work practice arrangements to apply for extended working day/week and revised out of hours emergency cover and in particular the most recent correspondence dated 4th February 2011.

Agreement has now being finalised with the MLSA, IMPACT and SIPTU on the arrangements to facilitate the introduction of extended working day arrangements for medical laboratory staff, which commenced initially with the introduction of the extended working day on a five over five (5/5) basis on 1st February 2011. Agreement was reached in accordance with the provisions of the Public Service Agreement.

The MLSA have now confirmed that their membership have voted in favour of acceptance of the revised arrangements for out of hours emergency cover. IMPACT have also confirmed their agreement to the revised payment arrangements.

Details of the revised payments are outlined below.

Revised Payment Arrangements

1. Definition of core hour and out of hours periods

Medical Scientific Staff (Scientists and Biochemists): with effect from 1st February 2011 medical scientific staff are liable to be rostered between the hours of 8am to 8pm Monday to Friday i.e. same core hours but liable to be rostered between the hours of 8am and 8pm.

Laboratory Aides, Clerical Administrative staff assigned to Laboratories: with effect from 1st February 2011 and subject to service requirements where staff are required to operate extended working day arrangements (8am to 8pm) Monday to Friday local discussion will take place on a site by site basis to put in place the rostered requirements.

2. Core hour remuneration rates

Employees who are rostered to work any time between 6pm – 8pm from Monday – Friday as part of their core working week will attract a payment of time plus 1/6th.

3. Out of Hours remuneration rates

The rates for emergency out of hours working for scientific staff, agreed by collective agreement in 1981, are to be replaced by the following rates:

Time Band	Mon - Fri 8pm – 12am	Mon – Thurs 12am-8am	Sat 12 am until Sun 12 am	Bank Holiday
Hourly Rate of Pay	€7.55 ⁽¹⁾	€7.80 ⁽²⁾	€2.57 ⁽³⁾	€2.57 ⁽³⁾

⁽¹⁾ This rate is derived from a division of the sessional rate of €62.88 by 7

⁽²⁾ This rate is derived from a division of the sessional rate of €62.88 by 5.5

⁽³⁾ This rate is derived from a division of the sessional rate of €62.88 by 5

Payments are to be made based on time and actual hours worked on a pro-rata basis. All hours worked on Saturday and Sunday are to be paid on the rate above i.e. €2.57 per hour pro rata to time worked. After midnight on Sunday i.e. Monday 12 am hours are to be paid on the 12am to 8am Mon – Thurs rate.

These payment arrangements apply to emergency out of hours worked after 8pm and before 8am only.

There is no fee per item applying under the new payment arrangements.

4. Stand-by payments (off site on call)

In sites, which operate off site on call arrangements, the following stand by payments will apply in addition to payment for actual time worked:

	Standby Payment
Mon – Fri	€42.34
Sat	€54.38
Sun & Public Holidays	€73.51

Actual time worked as part of an off site on call arrangement will be remunerated pro rata to the relevant hourly rates set out at 5 above i.e. payment will be made based on the actual time worked on the relevant hourly rate on a pro rata basis.

Effective Date

The revised out of hours payment arrangements are effective from **Tuesday, 1st March 2011**.

Implementation Group

An implementation group is being established to oversee implementation of the provisions of this agreement and to verify the savings achieved. The group will be chaired by a Service Lead and will include representatives from the Finance Directorate, HR and the Laboratory Service. The Group will ensure that changes are implemented consistently across laboratories.

Finally, an updated Implementation Guideline is attached which outlines full details of the revised arrangements. Any queries or assistance should be addressed to Corporate Employee Relation Services, Human Resource Directorate, HSE, 63 – 64 Adelaide Road, Dublin 2; telephone 01-6626966.

Yours sincerely,



Séan McGrath,
National Director of Human Resources.

Enc.

Guidance to health service management on the implementation of revised work practices in laboratories

Updated: 1 March 2011

Purpose of Guidance

The following guidance sets out the requirements for Laboratory Modernisation agreed with the MLSA, IMPACT and SITPU in relation to the implementation of extended working day provisions and a new payment structure for emergency out of hours work.

The Guideline has being updated to reflect Labour Court recommendation 19995 dated 3 February 2011.

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Section A. Background

1. Context

Agreement has been reached with the Medical Laboratory Scientists Association (MLSA), IMPACT and SIPTU on the introduction of extended working day arrangements for medical laboratory staff, commencing initially with the introduction of the extended working day on a five over five (5/5) basis to commence on 1 February 2011 i.e. same core hours but with a liability for staff to be rostered from 8am to 8pm Monday to Friday. Agreement was reached in accordance with the provisions of the Public Service Agreement.

Agreement on revised payment structure for out of hours emergency work was agreed with the parties. The parties could not reach agreement on the payment to apply for off site standby or for midnight to 8am. This was the subject of a Labour Court hearing in January 2011 and the Labour Court recommendation (LCR19995) is attached at Appendix II. The MLSA have confirmed acceptance of the revised arrangements following a ballot of their membership. These new arrangements replace all of the existing arrangements for out of hours emergency work.

2. External review of laboratory services

An external review of laboratory medicine services undertaken on behalf of the HSE highlighted a number of limitations in the current system of laboratory medicine services and recommended the implementation of a single co-ordinated system by:

- Processing the large volumes of routine patient tests generated from the community care system, outside the hospital, in dedicated “cold” labs. (A “cold” lab is a facility that is centralised and custom designed to process high volumes of routine “cold” samples, typically from primary care. It would include automated and non-automated sections; would be supported by dedicated logistics solutions and IT; may be standalone and would have a fast turnaround time);
- Processing tests from patients in regional hospitals receiving acute “round-the-clock” care through dedicated “hot” labs. This will provide more access to clinical laboratory medicine advice and more direct care of the complex patient. (A “hot” lab is a facility co-located with the emergency and complex acute services responsible for processing all urgent “hot” samples with an extremely fast turnaround time);
- Increasing “point-of-care” testing – where tests are carried out immediately: in acute hospitals, in local healthcare settings or in the patient’s home - wherever it is clinically appropriate and cost effective. (Point of care involves tests performed by non laboratory staff at or near the site of patient care, e.g. GP practice, clinic, home);
- All laboratories would be fully accredited and supported with appropriate I.T. and transport / logistics infrastructures

3. Laboratory Modernisation Process

On foot of the findings of the external review, in early 2009, the HSE established a Laboratory Modernisation Process to progress significant reform in the area of laboratory medicine services using the external report as a starting point. The HSE stated its commitment to engagement with all the stakeholders in relation to the options for achieving best practice solutions. In this context, representatives from key stakeholder groups – including The Faculty of Pathology, Medical Laboratory Scientists Association, Academy of Medical Laboratory Science, Association of Clinical Biochemists in Ireland and IMPACT - were been nominated to the relevant groups.

Some service improvements have taken place since the completion of the external review. The number of individual accredited laboratory disciplines has increased significantly. Some reconfiguration of laboratory services has been achieved by transferring work undertaken in a number of small laboratories to larger laboratories. A number of laboratories have introduced improved processes employing the principles of Lean Six Sigma. There has also been downward pressure on

pay and non pay costs through a combination of pay adjustments, improved efficiencies and implementation of cost containment strategies in individual locations.

4. Development of business case for cold laboratory services

In relation to the development of cold laboratory services, the HSE engaged The National Development Finance Agency and DKM Economic Consultants to assist in the preparation of an outline business case / cost/benefit analysis (OBC/CBA) for the development of cold laboratory services.

The OBC/CBA indicates that it would be viable to undertake a process of consolidation to create a national dedicated cold laboratory service. Rather than the current situation where the approximately 30 million tests generated by GP/primary care sector are processed in approximately 26 different laboratories throughout the country, the OBC/CBA considered the consolidation of that workload. It considers a number of different options, including 8, 3 and 2 site service configurations.

The OBC also identifies and analyses a number of options for financing the various cold laboratory site configurations including direct public provision, direct private provision and various public/private partnership models.

These options are now under active consideration by the HSE.

Given the range of complexities involved, the HSE undertook a formal pre-competitive process/market soundings exercise. This involved engagement with experienced and capable service providers – in the private and public sector - as a key input to reaching a definitive conclusion on (i) the service configuration option that will best deliver a consolidated and dedicated national cold laboratory service stream for the HSE and (ii) the most cost effective way of financing the preferred option.

The findings of that process will inform decisions to be taken in relation to the development of cold laboratory services.

The HSE has committed to continue to operate in accordance with paragraph 6 of Appendix 1 (Service Delivery Options). To this end, the HSE will continue its engagement with representative and academic bodies under the laboratory modernisation process on the development of a service plan. This plan will evaluate and compare the existing in house service and the various outsourcing options.

5. Introduction of revised work practices

It is anticipated that engagement in relation to the Public Service Agreement (PSA) will give a clear indication of the willingness and capacity of the public health service to provide laboratory services (including cold laboratory services) within the required efficiency / cost / quality parameters. This would mean significant changes in traditional practices, in skill mix and staffing, in technology utilisation and responsiveness.

The PSA recognises and acknowledges the advanced level of engagement of the relevant stakeholders *'to deliver major change to the medical laboratory services and associated work practices.'* (Paragraph 2.9.15 of the PSA refers).

In addition, the National Recovery Plan 2011-2014 acknowledges that major change is to be introduced in medical laboratory services and associated work practices.

Following ratification of the PSA in June 2010, discussions commenced with trade unions in August 2010 on the changes required to work practices, including the implementation of extended working arrangements and changes required to the existing emergency call system.

Following the intervention of the Health Sector Implementation Body to address specific process issues, discussions under paragraph 1.23 and 1.24 of the PSA, commenced in December 2010 under the auspices of the Labour Relations Commission (LRC).

Section B. Revised work practices in laboratories

1. LRC agreements and Labour Court ruling

Agreement between the parties was reached for the introduction of extended working arrangements for medical laboratory staff commencing initially with the introduction of the extended working day on a five over five basis (5/5) to commence on 1 February 2011 (i.e. same core hours but with a liability for staff to be rostered from 8am to 8pm, Monday to Friday) and on the introduction of five over six (5/6) and five over seven (5/7) working on a site by site basis subject to service requirements and appropriate local consultation after the commencement date.

Agreement was also reached on the introduction of a revised payment structure for the provision of emergency out of hours work with the exception of the payment applying for the period Monday to Friday 12 midnight to 8am and the standby element for off site on call.

In addition the parties could not agree the parameters to apply for the payment of compensation in the event of any loss of earnings arising from the introduction of revised working practices.

Documents agreed during the negotiations in December 2010 and January 2011 under the auspices of the LRC are attached at **Appendix II**.

The following paragraphs set out the terms of the agreement.

2. Extended working day and working week

All laboratories are to introduce rosters to reflect the extended working provisions set out in 2.9.12 of the Public Service Agreement.

Initially, rosters are to be based on 8am to 8pm working on a 5/5 basis. These arrangements are to be introduced from 1st February 2011.

It is imperative that where emergency out of hours services are currently required that rosters are developed to support routine service delivery up to 8pm on an extended day basis.

It has been agreed that there will be a requirement to introduce further arrangements to support the delivery of services over an extended period up to and including 24/7 emergency services in some service locations. This will be implemented on a site-by-site basis thereafter (paragraphs 2.9.13 and 2.9.14 of the Public Service Agreement refers).

Arrangements to introduce extended working week on a 5 over 6 (Monday to Saturday) or 5 over 7 (Monday to Sunday) can be introduced in sites where a service requirement is identified and following local consultation on the arrangements to apply.

3. Definition of core hour and out of hours periods

Medical Scientific Staff (Scientists and Biochemists) – with effect from 1 February 2011 medical scientific staff are liable to be rostered between the hours of 8am to 8pm Monday to Friday i.e. same core hours but liable to be rostered between the hours of 8am and 8pm.

Laboratory Aides, Clerical Administrative staff assigned to Laboratories – with effect from 1 February 2011 and subject to service requirements where staff are required to operate extended working day arrangements (8am to 8pm) Monday to Friday local discussion will take place on a site by site basis to put in place the rostered requirements.

4. Core hour remuneration rates

Employees who are rostered to work any time between 6pm – 8pm from Monday – Friday as part of their core working week will attract a payment of time plus 1/6th.

5. Out of Hours remuneration rates

The rates for emergency out of hours working for scientific staff, agreed by collective agreement in 1981, are to be replaced by the following rates:

Time band	Mon – Fri 8pm-12am	Mon – Thurs 12am-8am	Sat 12 am until Sun 12 am	Bank Holiday
Hourly rate of pay	€37.55 ⁽¹⁾	€47.80 ⁽²⁾	€52.57 ⁽³⁾	€52.57 ⁽³⁾

⁽¹⁾ This rate is derived from a division of the sessional rate of €262.88 by 7

⁽²⁾ This rate is derived from a division of the sessional rate of €262.88 by 5.5

⁽³⁾ This rate is derived from a division of the sessional rate of €262.88 by 5

Payments are to be made based on time and actual time worked on a pro-rata basis. All hours worked on Saturday and Sunday are to be paid on the rate above i.e. €52.57 per hour pro rata to time worked. After midnight on Sunday i.e. Monday 12 am hours are to be paid on the 12am to 8am Mon – Thurs rate.

These payment arrangements apply to emergency out of hours worked after 8pm and before 8am only.

There is no fee per item applying under the new payment arrangements.

6. Stand-by payments (off site on call)

In sites, which operate off site on call arrangements, the following stand by payments will apply in addition to payment for actual time worked:

	Standby Payment
Monday – Friday	€42.34
Saturday	€54.38
Sundays and Public Holidays	€73.51

Actual time worked as part of an off site on call arrangement will be remunerated pro rata to the relevant hourly rates set out at 5 above i.e. payment will be made to the actual time worked on the relevant hourly rate on a pro rata basis.

7. Superannuation

Pensionable pay will continue to be determined in accordance with Scheme rules in relation to basic pay and pensionable allowances in the nature of pay which are designated as pensionable. Under Scheme rules the standby allowance and premium payments such as time plus 1/6th are pensionable but payments such as overtime, special fees, including emergency call out fees and additional (emergency) sessions are not reckonable for pension purposes.

8. On-call availability

A 24-hour service will continue to be provided on a voluntary basis. However, the employers reserve the existing right to review arrangements on a site-by-site basis if service imperative require.

Where a medical scientist removes himself or herself from the on call roster this should be noted in the context of any future compensation claim.

Time off arrangements following call should be in accordance with the requirements of the Organisation of Working Time Act 1997, Organisation of Working Time Act General Exemptions Regulations 1998 and the LRC Code of Practice on Compensatory Rest Periods.

9. Out of Hours Arrangements

Each site must review their requirements for out of hours emergency service based on the service and clinical need. Out of hours arrangements can be based on an on site on call arrangement or an off site on call arrangement or a combination of both. The actual service and clinical requirements will determine the requirements. The review should also take account of the most cost efficient mechanism of providing out of hours service. This may include the requirement to introduce multidisciplinary cover in large hospital laboratories in order to minimise the requirement for staff to work unsocial hours. The following options are available: -

On site on call

These arrangements will generally suit a large acute hospital laboratory with high volumes of emergency out of hour activity. Staff may be rostered for on site on call from 8pm to 8am Monday to Sunday. Rosters should be flexible to suit the service and individual needs e.g. 12 hour rosters, 6 hour rosters etc.

Where out of hours activity is low in some specialities e.g. microbiology, tissue typing etc the service may consider using off site on call and/or multidisciplinary call.

Off site on call

This arrangement will generally be utilised where activity for emergency out of hours work is low.

Multidisciplinary cover

This arrangement, which is currently used in smaller hospital laboratories, should also be considered in large hospital laboratories where activity in some specialities is low and can be provided by staff already on call.

Where there are requirements to change out of hours arrangements appropriate consultation should take place.

Where sites are experiencing difficulty in putting in place appropriate out of hours service due to staffing or other deficits consideration should be given to reviewing alternative options such as for example the delivery of out of hours emergency work by a larger viable site.

10. Extended Working Week

The requirement to move a five over six (5/6) and/or five over seven (5/7) will apply on a site-by-site basis in line with service imperatives thereafter. The employer's requirement will be to reduce the need for onerous out of hours working arrangements insofar as possible. The introduction of 5/6 or 5/7 working will eliminate the requirement for time off in lieu arrangements.

11. Standardisation of working hours and annual leave

Standardisation of working hours and annual leave will be addressed separately under the PSA, paragraph 1.8 refers. Therefore, there will be no change to existing arrangements in relation to working hours or annual leave and the existing agreement relating to standardisation (agreed under Towards 2016) stand.

12. Compensation for loss of earnings

Compensation for Loss of Earnings and Phasing Arrangements – The Labour Court has recommended the following:

The Court recommends that the compensation for actual loss of earnings arising from the new arrangements be calculated on the basis of 1.5 times the actual loss. The level of loss should be established in each case by comparing earnings in a full twelve month period in which the new arrangements has been in operation with a corresponding period in which the current system operated. The detailed arrangements in that regard should be agreed between the parties.

In terms of phasing the Court recommends that a first moiety of 50% of the compensation due should be paid 12 months after the new arrangement become operational. The remaining 50% of the amount due should be paid six months thereafter.

13. Review

The revised payment structure for out of hours emergency work will be reviewed in line with the changes to hospital configuration proposed under the Acute Hospital re-configuration programme and including implementation of the cold laboratory system.

14. Implementation Arrangements

An implementation group is being established to oversee implementation of the provisions of this agreement and to verify the savings achieved. The group will be chaired by a Service Lead and will include representatives from the Finance Directorate, HR and the Laboratory Service. The Group will ensure that changes are implemented consistently across laboratories.

Appendix I – Relevant provisions of the Public Service Agreement 2010-2014

Set out below are relevant provisions of the Public Service Agreement 2010-2014:

Chapter 1 – Main Agreement

Standardisation Paragraph 1.8

In order to help in the integration of the Public Service, barriers to a unified Public Service labour market will be dismantled, including through legislative provision as appropriate. To the greatest extent possible, there will be standardised terms and conditions of employment across the Public Service, with the focus initially within sectors. In that context, the Parties have agreed to review and revise contractual or other arrangements or practices which generate inflexibility or restrict mobility.

Mechanisms to resolve disagreements Paragraph 1.23

The Parties agree that they will seek to resolve disagreements where they arise promptly. Trade unions and employees will co-operate with the implementation of change pending the outcome of the industrial relations process.

Paragraph 1.24

Where the Parties involved cannot reach agreement in discussions on any matter under the terms of this Agreement within 6 weeks, or another timeframe set by the Implementation Body to reflect the circumstances or nature of the particular matter, the matter will be referred by either side to the LRC and if necessary to the Labour Court; where a Conciliation or Arbitration Scheme applies, the issue will be referred within 6 weeks, or another timeframe set by the Implementation Body to reflect the circumstances or nature of the particular matter, by either side to the Conciliation machinery under the Scheme and, if unresolved, to the Arbitration Board, acting in an ad hoc capacity. The outcome from the industrial relations or arbitration process will be final. Such determinations(s) will be made within 4 weeks, or another timeframe set by the Implementation Body to reflect the circumstances or nature of the particular matter.

Appendix: Service Delivery Options

Paragraph 6

In the first instance, in respect of an existing service, both sides give a commitment to consult on the development of a service plan. This plan will evaluate the existing in-house service, the outsourcing option, and compare both. As part of the evaluation both Parties will consult with a view to agreeing a plan to address the service changes necessary to retain the service in house. In evaluating any proposal to proceed with outsourcing, a number of factors will be taken into account, including overall cost, quality of service, effectiveness, and the public interest. All relevant costs will be included in the evaluation but it will not be determined by unit hourly rates of pay.

Chapter 2 – Health Sectoral Agreement

Paragraph 2.9.12 – the introduction of an extended working day covering the period 8 a.m. to 8 p.m. (i.e. same contracted hours but different scheduled attendance patterns) for all grades in service locations where this is identified as needed to meet service requirements.

Paragraph 2.9.13 – the introduction of new arrangements to support the delivery of services over any extended period up to and including 24/7 emergency services (i.e. same contracted hours but rostered differently) for all grades in service locations where this is identified as needed to meet service requirements.

Paragraph 2.9.14 – reviews by management, including nurse management, of existing rostering arrangements including skill mix, to incorporate changes to achieve the optimal match between staff levels, service activity levels and patient dependency levels across the working day/week/year.

Paragraph 2.9.15 – as part of the transformation programme across the health service, a process involving all relevant stakeholders is well advanced to deliver major change to the medical laboratory

services and associated work practices. The programme will deliver the optimal structures to ensure a quality and fit for purpose 24 hour service.

Appendix II - Documentation relating to negotiations at LRC December 2010 and January 2011

1. LRC Proposals dated 17 December 2010
2. LRC Proposals dated 17 January 2011
3. LCR19995 dated 3 February 2011



The Labour Relations Commission
An Coimisiún um Chaidreamh Oibreachais

Tom Johnson House
Haddington Road
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Bóthar Haddington
Baile Átha Cliath 4

Telephone 01 613 6700
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E-mail: info@lrc.ie
Website: www.lrc.ie
LoCall (outside 01 area): 1890 220227

Ref. c-098821-10

17 December 2010

Ms Ann Marie Ward HSE
Mr Terry Casey MLSA
Mr Stephen O'Neill IMPACT

**Proposal by the Labour Relations Commission to address the
introduction of revised work practices for Laboratory services.**

The parties have agreed to allow a lead in time from 1 January 2011 to 1 February 2011 for the introduction of revised working rosters for staff working within all laboratories.

The introduction of revised rosters in all laboratories on 1 February 2011 will be based on the extended working day and the extended working week (paragraph 2.9.12,13 and 14 of the PSA refers), subject to service need.

To give effect to this requirement, the parties will engage in intensive discussions under the auspices of the LRC on the proposals presented by the employers for revised out of hours payment system and issues raised by the union side regarding laboratory modernisation. Discussions to resolve issues will commence in the first week of January 2011 and conclude by 14 January 2011.

The LRC has sought an urgent hearing of the Labour Court in mid January 2011 (in the event that the Court's services are required).

John Fallon
Labour Relations Commission

Commission members

Breege O'Donoghue, Chair
Brendan McGinty
Fergus Whelan
Gerard Barry
Iarla Duffy
John Hennessy
Peter McLoone

Kieran Mulvey (Chief Executive)



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Ref. c-098821-10

17 January 2011

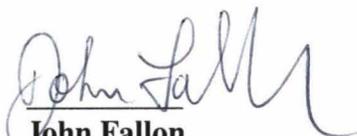
Ms Ann Marie Ward HSE
Mr Terry Casey MLSA
Mr Stephen O'Neill IMPACT

Laboratory Modernisation

At the conciliation conference on 14 January 2011 the attached document in regard to Laboratory Modernisation - Revised Working Arrangements was agreed by the parties.

It was also agreed that the following issues would be referred to the Labour Court in accordance with paragraph 1.24 of the Public Service Agreement.

- (i) Out of hours payment in respect of Midnight to 8am Monday to Friday
- (ii) Rate of payment for Stand by off site
- (iii) Compensation for loss of earnings and phasing of compensation


John Fallon
Regional Manager

Commission members

Breege O'Donoghue, Chair
Brendan McGinty
Fergus Whelan
Gerard Barry
Iarla Duffy
John Heaney

Laboratory Modernisation – Revised working arrangements

Context

The requirement to modernise laboratory services to both acute and primary care and deliver the optimal structures to ensure a quality and fit for purpose 24 hour service have been the subject of a process of engagement with all relevant stakeholders for some considerable time and the process is well advanced. This is recognised by the Public Service Agreement (PSA) (paragraph 2.9.15).

1. Revised Working Arrangements

In order to facilitate ease of transition, rosters will initially be based on 8am to 8pm working on a 5/5 basis in line with paragraph 2.9.12ⁱ of the PSA. These arrangements will come into effect from 1st of February 2011. There will be a requirement to introduce further arrangements to support the delivery of services over an extended period up to and including 24/7 emergency services in some service locations. This will be implemented on a site-by-site basis thereafter (paragraphs 2.9.13 & 2.9.14 of the PSA refers).

2. Mandatory On-call

The employers accept that a 24 hour service is currently provided on a voluntary basis and are therefore prepared to accept that this will continue to be the case with the introduction of revised working arrangements and are therefore willing to continue with a voluntary system for out of hours service provision. The employers reserve the existing right to review arrangements on a site-by-site basis if service imperatives require.

3. Laboratory Quality Service Manager Role

In relation to the issue of the Laboratory Quality Manager role, the parties agree to engage in discussions at the request of the MLSA during 2011 within the parameters of the Public Service Agreement.

4. Superannuation

Pensionable pay will continue to be determined in accordance with Scheme rules in relation to basic pay and pensionable allowances in the nature of pay which are designated as pensionable. Under Scheme rules the standby allowance and premium payments such as time plus 1/6th are pensionable but payments such as overtime, special fees, including emergency call out fees and additional (or emergency) sessions are not reckonable for pension purposes.

5. Other Modernisation issues

The employers proposals outlined in September 2010 relating to modernisation requirements stand. However, in the context of the phasing approach outlined it is not

expected that these will be implemented on 1st February 2011. There will be a requirement for further consultation in accordance with the HSE laboratory modernisation process and on a location by location basis, to address the specific requirements for modernisation e.g. skill mix, integration of disciplines etc.

6. Service Delivery Options

The Public Service Agreement recognises the advanced status of discussions by all the stakeholders in relation to modernisation of laboratories (2.9.15). The employers will continue to operate in accordance with paragraph 6 of Appendix 1 (Service Delivery Options). To this end the HSE will continue its engagement with representative and academic bodies under the laboratory modernisation process on the development of an in house plan.

^{i 1} Where existing arrangements for Sat/Sun working provide for time off in lieu arrangements leave must be taken in block and a maximum of 5 days can be carried forward into a new leave year. The introduction of 5/6 or 5/7 working will eliminate the requirements for time off in lieu arrangements.

CD/11/48 RECOMMENDATION NO. LCR19995
(CCc-098821-10)

INDUSTRIAL RELATIONS ACTS, 1946 TO 2004
SECTION 26(1), INDUSTRIAL RELATIONS ACT, 1990

PARTIES : _____

HSE

- AND -

MEDICAL LABORATORY SCIENTIST ASSOCIATION
IRISH MUNICIPAL, PUBLIC AND CIVIL TRADE UNION

DIVISION :

Chairman : Mr Duffy
Employer Member : Ms Doyle
Worker Member : Mr Shanahan

SUBJECT:

1. 1. Out of hour's payment in respect of midnight to 8am Monday to Friday. 2. Rate of payment for stand-by off-site. 3. Compensation for loss of earnings and phasing of compensation.

BACKGROUND:

2. Due to the extension of the working day for Medical Scientist and Biochemist laboratory staff, a revised method of payment is proposed by the HSE. The Unions have proposed an alternative compensation arrangement which differs in the detail. Agreement has been reached on most aspects of the payment arrangements to apply with the exception of three main issues, out-of-hours payments, stand-bye off site payments and loss of earnings and the phasing of compensation for this loss.

The dispute could not be resolved at local level and was the subject of a Conciliation Conference under the auspices of the Labour Relations Commission. As agreement was not reached, the dispute was referred to the Labour Court on the 18th January, 2011, in accordance with Section 26(1) of the Industrial Relations Act, 1990.

A Labour Court hearing took place on the 28th January, 2011.

UNION'S ARGUMENTS:

3. 1 The introduction of the revised working arrangements and revised out-of-hours remuneration payments will result in substantial loss of earnings for staff that work regular routine emergency on-call rosters.

2. Those who have participated in emergency sessional work over many years will now have no access to out-of-hours premiums. The change is greater than normal on-going change and is beyond the terms laid down under the Public Service Agreement.

COMPANY'S ARGUMENTS:

4. 1. The HSE has being tasked with the delivery of 2010 service levels with a further reduction in budget of €746 million in 2011. The HSE will review the impact on staff regarding changes in their remuneration at a future date.

2. The Public Service Agreement recognises the requirement for the Public Service to deliver services in a leaner and more effective manner, taking regard of the significant advancements in laboratory technology, and clinical practice while focusing on the needs of the citizen.

RECOMMENDATION :

Having considered the submissions of the parties the Court recommends as follows in relation to each to the items referred to the Court:

Out of hours payment from midnight to 8am, Monday to Friday

The Court recommends that the rate applicable for this period should be calculated by dividing the current sessional rate of €262.88 by 5.5 giving an hourly rate of €47.80.

Rate of Payment for stand-by off site

The Court recommends that the Stand-By rate payable to Theatre Nurses employed by the HSE should be applied to those associated with this claim.

Compensation for Loss of Earnings and Phasing Arrangements

The Court recommends that the compensation for actual loss of earnings arising from the new arrangements be calculated on the basis of 1.5 times the actual loss.

The level of loss should be established in each case by comparing earnings in a full twelve month period in which the new arrangements has been in operation with a corresponding period in which the current system operated. The detailed arrangements in that regard should be agreed between the parties.

In terms of phasing the Court recommends that a first moiety of 50% of the compensation due should be paid 12 months after the new arrangement become operational. The remaining 50% of the amount due should be paid six months thereafter.

Signed on behalf of the Labour Court

Kevin Duffy
3rd February, 2011
Chairman

NOTE

**Enquiries concerning this Recommendation should be in writing and addressed to John Foley,
Court Secretary**