



The Labour Relations Commission
An Coimisiún um Chaidreamh Oibreachais

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Ms Shirley Coulter
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10 Fitzwilliam Place
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24th October 2012

Ref: c-124933-12

Re: NCHD Contract 2010 - Annual Leave Agreement

I refer to the above issue which was the subject of several conciliation conferences over the past number of months and confirm that the following settlement proposal has been agreed to be recommended for acceptance by both parties.

The finalisation of the terms of this Annual Leave Agreement forms part of a number outstanding issues arising from the NCHD High Court settlement .

At your convenience, please revert to the Commission with your formal position in relation to attached agreement terms.

Yours sincerely


Anna Perry
Conciliation Service

Enc

Commission members

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

Kieran Mulvey (*Chief Executive*)

IMO HSE Annual Leave Agreement

18th October 2012

1. NCHD Contract 2010 Annual leave

Section 9 (c) - Annual leave is granted in accordance with the provisions of the Organisation of Working Time Act 1997. NCHDs are entitled to 16 calendar days (12 working days) leave per 6 month period. Calendar days are inclusive of weekends, hence if a doctor takes a full weeks annual leave, it equates to 7 calendar days. Payment of notional hours while on annual leave will be paid on the basis of average approved rostered hours over a reference period of 13 weeks.

The total hourly leave of an NCHD in a six month period is 93.6 hours. A single day's leave is calculated as being 7.8 hours, with a full weeks leave equating to 39 hours. The doctors leave for a 6 month period must not exceed the hourly total for the period.

An NCHD cannot be considered to have taken more than 39 hours leave in any one week.

Section 9 d) Public holidays

Public holidays shall be granted in accordance with the Organisation of Working Time Act 1997. In respect of each public holiday the NCHD will receive one of the following (as the Employer may decide):

- An NCHD who normally works Monday – Friday and who has their public holidays off, is not entitled to an additional day off in lieu of the public holiday.
- An NCHD who is rostered for duty on the day on which a public holiday falls is entitled to single time extra remuneration in respect of hours worked on this day.
- NCHDs who work a '5 over 7' roster are entitled to a total of 9 working days (7.8 hours per day) in lieu of the liability to be rostered on a public holiday. In terms of the practical implementation of this entitlement, 4 days fall due in respect of the period from the second Monday in January to the second Monday in July and 5 days apply in respect of the period from the second Monday in July to the second Monday in January.

2. Implementation

Taking the above into account, the following approach to annual leave has been adopted.

Category A) NCHDs who are required to undertake on-call on site or off-site in addition to their 39 hour week will receive:

From January to July

- 12 working days annual leave of 7.8 hours each
 - 4 working days of 7.8 hours each in lieu of public holidays
- Total leave allowance of 16 working days or 124.8 hours leave.

From July to January

- 12 working days annual leave of 7.8 hours each;
 - 5 working days of 7.8 hours each in lieu of public holidays;
- Total leave allowance of 17 working days or 132.6 hours leave

This means that NCHDs who are required to undertake on-call are being granted their public holiday entitlements in advance.

Taking that into account:

- All annual leave/public holiday entitlement is to be calculated on the basis of working days / working hours and not calendar days. Saturdays and Sundays are not to be included in the calculation of leave e.g. if an NCHD takes a Friday off, this is counted as 1 working days leave and not 3 calendar days as has been the practice to date.
- NCHDS who have been granted their public holiday in advance, are rostered off on a public holiday and who are not rostered on-site or required to provide on-call on that day, will not be recorded or credited as having worked on that public holiday.
- NCHDs who work on the public holiday (including on call on site and off site) will be paid the relevant rate applicable for the hours worked (e.g. the period of a public holiday is defined as any hours worked between midnight on the eve of a public holiday and midnight on the public holiday) and do not need to take a days annual leave or an unpaid days leave for the day.
- NCHDs who are not rostered for a public holiday may opt to either use one of their 16/17 days leave in order to receive a paid day off on the public holiday or they may opt to take an unpaid days leave
- NCHDs who have been granted their public holiday entitlement in advance will be recorded as having taken 5 days or 39 hours annual leave if they are on annual leave for a week incorporating a public holiday unless they have opted to take an unpaid day's leave for the public holiday.

Category B) NCHDs who work their 39 hours on a Monday to Friday basis and do not participate in on-call

January to July

- 12 working days annual leave of 7.8 hours each
- Each of the 4 public holidays occurring in this period as a paid day off on the day of the holiday;
For a total of 16 working days or 124.8 hours leave

July to January

- 12 working days annual leave of 7.8 hours each
- Each of the 5 public holidays occurring in this period as a paid day off on the day of the holiday;
For a total of 17 working days or 132.6 hours leave

Taking that into account,

- If an NCHD who is not required to undertake on-call is on annual leave for the week incorporating a public holiday, 4 days (31.2 hours) annual leave is recorded.

- If an NCHD who does not normally undertake on-call is rostered on-site or on-call on a public holiday, (s)he will receive a day off in lieu at another time. If this occurs on a regular basis the NCHD can seek to be moved to Category A and receive their public holiday entitlement up front. This request will be examined by the Hospital in the first instance and if no agreement is reached within 2 weeks of the request, the issue may be referred by either party to the IMO/HSE Working Group.

Category C) General Practice Registrars

GP Registrars working in the community will have their previous entitlement of 3 weeks annual leave per 6 month period reinstated (15 working days per 6 months).

Points to Note:

- If there is disagreement as to which category an NCHD is in, and agreement cannot be reached at local level within 2 weeks of the dispute first being raised, the matter may be referred by either party to the IMO/HSE Working Group.
- Every effort should be made to ensure that rosters incorporate all leave for the full 6 month period at the commencement of each rotation in January and July. At a minimum rosters for public holidays cover should be decided by NCHDs and management at the commencement of each rotation in order that NCHDs can choose at the earliest possible date what leave or unpaid leave to attribute to public holidays for which they are not rostered.
- Section 12 a) of NCHD Contract 2010 states that:
 - a) “ Overtime refers to work on-call on-site as required by the Employer in excess of the average 39 hours worked in each week of the roster period.”

In that context it should be noted that Overtime 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 days leave, this can be granted. In these circumstances core pay for that week must not be deducted but overtime will not apply until after 156 hours have been worked over the 4 week period.