



**Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive**

Long Term Absence Benefit Schemes Guidelines

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HSE Long Term Absence Benefit Schemes Guidelines
Document reference no. CERS 2011/3. Revision no 1.0 Approval Date 20 November 2012

Signature Sheet

I have read, understood and agree to adhere to the attached Policy and Procedure:

Print Name	Signature	Area of Work	Date

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1. Purpose

- 1.1 The purpose of these Guidelines is to set out the provisions pertaining to the long-term absence benefit schemes that apply in the HSE. These schemes are the injury grant scheme, the serious physical assault scheme and pension rate of pay.
- 1.2 These Guidelines also set out the procedures that should be adhered to when managing the implementation of schemes. The purpose of these procedures is to ensure consistent management of the long term absence benefit schemes, together with providing clarity on the roles and responsibilities of all parties.
- 1.3 These Guidelines should be read in conjunction with the HSE's Managing Attendance Policy and Procedure, the Rehabilitation of Employees Back to Work after Illness or Injury Policy and any other relevant HR policies and procedures.
- 1.4 The granting of pay under the various long term absence benefit schemes is subject to full compliance with the provisions and conditions of the procedures as set out in these Guidelines. Failure to comply with any of these provisions may result in pay being withheld.

2. Scope of the guidelines

- 2.1 The Guidelines apply to all HSE employees and to all grades of staff unless otherwise stated.

3. Definitions/abbreviations

- 3.1 **Injury Grant Scheme:** is an allowance that is paid to employees injured in the discharge of their duties, without their own default and by some injury attributable solely to the nature of their duties. It is provided for by Articles 49 and 109 of the Local Government (Superannuation) (Consolidation) Scheme 1998 and Section 12.1 of Health Service Executive Employee Superannuation Scheme 2010 (SI 362 of 2010). The allowance payable cannot exceed five-sixths of the remuneration (inclusive of emoluments) of the position in which the employee received the injury. Further details of this scheme are set out in Appendix 1.
- 3.2 **Serious Physical Assault Scheme:** All 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. 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 staff 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. Further details of the Serious Physical Assault Schemes are set out in Appendices 2 and 3.

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 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."

- 3.3 Pension rate of pay:** pension rate of pay is an extension of the officers sick pay scheme, set out in Department of Health and Children circular 10/1971, which provides for payment at the pension rate of pay where an officer has exhausted his/her sick pay entitlement but is still unfit to return to work. Pension rate of pay equates to the rate of pension the officer would have received in the event of retirement on the grounds of permanent infirmity at the date of application. In order to qualify for this scheme applicants must be an officer grade, have accrued reckonable service in accordance with current pension scheme rules (5 years reckonable service), have exhausted his/her paid sick leave entitlement and there must be a reasonable expectation of the employee's return. Further details of this scheme are set out in Appendix 4.

4. Roles and responsibilities

4.1 Responsibilities of Employees

- To minimise absences arising from accidents, assaults or ill-health by complying with Health and Safety requirements and taking reasonable care of their own safety and that of others;
- To comply with referrals for medical assessment to the Occupational Health Department and /or to a medical practitioner(s) nominated by the HSE;
- To co-operate fully with reasonable rehabilitative measures to facilitate a return to work as quickly as possible;

- To notify the line manager / appropriate manager of any relevant changes in medical circumstances i.e. if the employee will not be fit to return to work;
- To include in any action for damages, arising from an accident involving a third party, a claim in respect of the gross amount incurred by the HSE in the payment of sick pay;
- To comply with the requirements set out by the Department of Social Protection in relation to claiming Illness Benefit / Injury Benefit;
- To claim expenses incurred in respect of hospital / medical charges under medical insurances schemes in the first instance, where appropriate;
- To familiarise themselves with and comply with the provisions of the Long Term Absence Benefit Schemes (the Injury Grant Scheme, the Serious Physical Assault Scheme and the Pension Rate of Pay Scheme).

4.2 Line manager/appropriate manager

- To ensure appropriate management of employees availing of benefits under the schemes, including ensuring continuing eligibility and appropriate decision-making regarding continuation
- To manage Health and Safety in the workplace by ensuring that all hazards are identified as part of the Risk Assessment process and that controls are implemented to remove or minimize risk;
- To maintain accurate records of attendance and monitor the sick leave of employees;
- To refer employees who are applying for one of the Long Term Absence Benefit Schemes to the Occupational Health Department for a medical assessment in accordance with the Managing Attendance Policy and Procedure;
- To review applications for payment under the Long Term Absence Benefit Schemes¹, assess against criteria and to forward, with relevant reports, to the appropriate Senior Manager for recommendation;
- In the event of an occupational injury or serious physical assault to investigate the incident and the complete the Incident Report Form.
- To maintain regular contact with employees during extended periods of absence and to advise them of Staff Support/Employee Assistance Programmes;

¹ HR 108 Serious Physical Assault Scheme Application form; HR 112 Injury Grant Application form and HR 114 Pension Rate of Pay Application form
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- To seek support and advice from the local Human Resource Department in relation to the management of employees who are absent and availing of the Long Term Absence Benefit Schemes;
- To take all reasonable steps to accommodate a phased return to work in line with any recommendations from occupational health and relevant policies and procedures;
- To make reasonable adjustments to employment arrangements or accommodation for employees with a disability;
- To hold regular reviews in conjunction with Occupational Health, the HR Department and other relevant stakeholders regarding the employee's fitness to return to work and eligibility under the terms of the particular scheme, including Occupational Health referrals in order to assess the fitness of staff.

4.3 Senior manager (at Hospital Manager/General Manager level)

- To assess applications for payment under the various Long Term Absence Benefit Schemes based on the information submitted, seek additional information if required and to make a recommendation to the Assistant National Director of HR regarding approval.

4.4 Assistant National Director of HR

- To act as final decision maker in the granting of payments to employees under the various Long Term Absence Benefit Schemes.

4.5 Human Resources /Employee Relations

- To provide advice and support to line managers in the monitoring and management of illness absence so as to ensure consistent implementation of the Long Term Absence Benefit Schemes;
- To maintain a record of employees availing of the various Long Term Absence Benefit Schemes to ensure monitoring and review of each case in a timely manner;
- To liaise with the Occupational Health Department and line managers/appropriate managers and advise on the implementation of recommendations arising from occupational health referrals as required;
- To liaise with payroll and superannuation regarding verification of payment where leave under one of the Long Term Absence Benefit schemes is approved;
- To convey decisions in relation to applications under the various Long Term Absence Benefit Schemes to employees;

- To collaborate with Health and Safety, Occupational Health, Employee Assistance and Health Promotion Departments to develop initiatives to promote a safe and healthy working environment;
- To provide information and guidance on all Long Term Absence Benefit Schemes;
- To ensure employees are made aware of the Schemes and are given appropriate information on them and on their potential entitlements under the Department of Social Protection benefit schemes.

4.6 Role of the Occupational Health Department

- To provide an independent advisory service on any health-related matter which is affecting the employee's ability to undertake work or the impact of work on the employee's health, taking into account the illness or injury prompting the referral and medical opinion where available;
- In the case of the General Injury Grant Scheme to provide an assessment of the employee's degree of impairment ie the degree (expressed in percentage terms) to which the person's capacity to contribute to his/her own support is impaired in accordance with Department of the Environment and Local Government Circular S.7/2001.
- To liaise with the employee, their medical adviser and line manager / appropriate manager (with appropriate consent) when further information is required.
- To advise managers on employee's fitness to undertake his/her full range of contracted duties and to make recommendations on measures to assist the employee to return to work following illness absence as quickly and safely as possible;
- To advise managers on the employee's fitness to undertake modified or alternative duties, specifying limitations and recommending suitable and appropriate duties (within the terms of the employment contract) that may be undertaken.;
- To conduct regular follow up assessments in accordance with the terms of the particular scheme to assess if or when the employee may be fit to return to work;
- To report to managers where an employee is not likely to return to work due to permanent incapacity;
- To inform employees of the availability of the Schemes.

4.7 Role of Superannuation

- To calculate the applicable pension rate of pay based on an employee's service where an application has been approved.
- To calculate the injury allowance to which an employee is entitled taking account of any necessary deductions where Article 109 of the Local Government (Consolidated) (Superannuation) Scheme 1998 is invoked.
- To furnish estimates of pension / lump sum benefits prior to retirement;
- To process applications for retirement on grounds of permanent infirmity;

4.8 Role of Payroll

- To implement instruction from line manager/appropriate manager or HR/Employee Relations regarding payments under the relevant schemes.

5. Procedures

5.1 Procedure for managing implementation of the Injury Grant Scheme

The 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 cannot 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 allowance is calculated by multiplying the net sum after deductions by the person's degree of impairment.

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).

The procedure for applying for the injury grant is as follows:

- When an incident occurs in the workplace where an employee is injured the line manager / appropriate manager must ensure that the employee receives the

necessary first aid/medical attention immediately. Employees should also be advised of Staff Support/Employee Assistance Programmes and counselling / critical incident stress debriefing services.

- The line manager/appropriate manager must ensure that any incidents, accidents or near misses that occur in the workplace are investigated, in line with the relevant health and safety policy or procedure and ensure any corrective action is undertaken where appropriate.
- The line manager/appropriate manager must complete incident report form as soon as possible after the incident and forward a copy to the Risk Management Department and the HR Department. If the incident involves more than three days absence the Health and Safety Authority IR1 form must be completed by the line manager/appropriate manager and returned to the Health and Safety Authority in a timely manner.
- The line manager/appropriate manager should refer the employee to Occupational Health as soon as possible after the incident to assess the employee's degree of impairment as a result of the incident and to make recommendations on when the employee will be fit to return to duty in accordance with the Department of Environment and Local Government Circular S.7/2001. A copy of the incident report form should be supplied to Occupational Health in advance of the initial assessment.²
- The injury allowance as provided by Article 49/109 or s. 12.1 is payable with effect from the date the injury occurred. The employee may invoke Article 49/109 or s.12.1 by completing HR Form 112 and submitting this form to his/her line manager/ appropriate manager for recommendation.

The line manager/appropriate manager must review the application to assess whether the employee meets the conditions of the scheme. If deemed eligible the line manager/appropriate manager must complete the form and submit it to the relevant Senior Manager / General Manager along with copies of the Incident Report Form, Occupation Health and other relevant reports, witness statements etc.

- The Senior Manager/Hospital Manager will make a recommendation on the payment of the injury grant and submit it to the Assistant National Director of HR for a final decision on approval and sign off.
- The Assistant National Director of HR can sanction payment of the injury grant for an initial limited time period or for life following the consideration of the merits of each case. The continuation of this pay beyond the initial limited period will be subject to further application and regular review.
- If the application is refused the line manager/appropriate manager must then convey this decision to the applicant along with the reasons for the refusal. If the employee is dissatisfied with this decision then he/she should be advised that he/she can appeal it

² Note the degree of impairment is not applicable to employees approved under the Serious Physical Assault scheme when applying Article 109 (injury grant).
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through the grievance procedure. As the Assistant National Director of HR is the final decision maker the appropriate level to hear an appeal under the grievance procedure would be RDO/National Director.³

- If the application is approved the regional HR department/employee relations department must convey this decision to the employee and the line manager / appropriate manager. This letter will also set the terms of the Scheme and the payment provisions. The employee should be advised in this correspondence that the time spent in receipt of injury grant is not reckonable service.
- The HR/Employee Relations Department should request superannuation to calculate the net amount of the injury grant to which the employee is eligible. This amount will then be multiplied by the degree of impairment, as assessed by the Occupational Health Department, to calculate the injury grant entitlement. The HR/Employee Relations Department must then notify the employee of this amount.
- The HR/Employee Relations Department should notify the local payroll/personnel administration section to make the appropriate arrangements to have the employee paid.
- The line manager/appropriate manager should continue to monitor the sick leave of the employee on a monthly basis during the period while they are in receipt of injury grant in conjunction with the HR/Employee Relations Department. Line manager/ appropriate managers should continue to make every effort to facilitate a return to work as quickly and safely and employees will be required to undergo regular assessments with the Occupational Health Department as part of the scheme.
- If the employee no longer meets the criteria of the scheme then the employee will be informed by HR in advance and the allowance should cease to be paid. The employee will be managed in accordance with the Managing Attendance Policy and Procedure and Rehabilitation of employees back to work after illness or injury policy.
- If the employee disagrees with the medical advice they may provide further medical evidence to support their position. Such evidence will be provided at their own expense and within strict timeframes.

5.2. Procedures for managing implementation of the Serious Physical Assault Scheme

The Serious Physical Assault Scheme applies to employees who are seriously assaulted in the course of their duties. The scheme provides for a refund of hospital expenses and payment of full pay (including allowances and premium earnings) for a period of up to

- 6 months for officer grades;
- 3 months for support staff grades.

³ Note there is a specific appeals process for nurses under the Revised Serious Physical Assault Scheme (see page 12)
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In 2001 a Revised Serious Physical Assault Scheme was issued for nurses that provides for two special extensions of sick pay in addition to the other terms of the scheme (Appendix 3). Salary paid to an employee in these circumstances will not affect the employee's entitlement under the sick pay scheme.

The procedure for applying for the Serious Physical Assault Scheme is as follows:

- When an incident occurs in the workplace where an employee is seriously physically assaulted the safety of staff and service users is paramount. The line manager/ appropriate manager must ensure that the incident is dealt with in line with the relevant assault at work policy or protocol. This will include ensuring that the employee receives the necessary first aid/medical attention immediately, is advised of Staff Support/Employee Assistance Programmes and counselling and that critical incident stress debriefing services will be provided. It will also include dealing with the perpetrator of the assault in the appropriate manner.
- The line manager/appropriate manager must ensure that any incidents that occur in the workplace are investigated, in line with the relevant health and safety policy/procedure, and ensure any corrective action is undertaken where appropriate.
- The line manager/appropriate manager must complete incident report form as soon as possible after the incident and forward a copy to the Risk Management Department and the HR Department. If the incident involves more than three days the Health and Safety Authority IR1 form must be completed and submitted to the Health and Safety Authority in a timely manner.
- The line manager/appropriate manager should refer the employee to Occupational Health as soon as possible after the incident to assess the employee's injuries as a result of the incident and the employee's capability to resume work. A copy of the incident report form should be supplied to Occupational Health in advance of the initial assessment.
- In order to access the scheme HR Form 108 must be completed by the employee and his/her line manager/appropriate manager and submitted in a timely manner. In some instances, due to the nature of the assault the employee may not be in a position to assist with the application. In such cases, the completion of the form will be undertaken by the line manager/appropriate manager to minimise delays.
- The line manager/appropriate manager must review the application to assess whether the employee meets the criteria of the scheme. If deemed eligible the line manager/ appropriate manager must complete the form and submit it to the relevant Senior Manager/General Manager along with copies of the Incident Report Form, Occupation Health and other relevant reports, witness statements etc for a recommendation.
- The Senior Manager/General Manager will make a recommendation on the applicability of the Scheme and submit it to the Assistant Director of HR for final decision. The Assistant National Director of HR can sanction payment of the Serious Physical Assault Scheme for a period of up to 6 months in the case of an officer grade and 3 months in the case of a support staff grade.

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- If the application is refused the HR/Employee Relations Department must then convey this decision to the applicant along with the reasons for the refusal. If the employee is dissatisfied with this decision then he/she should be advised that he/she can appeal it through the grievance procedure. As the Assistant National Director of HR is the final decision maker the appropriate level to hear an appeal under the grievance procedure would be RDO/National Director.⁴
- If the application is approved the HR/Employee Relations Department must convey this decision to the employee. This letter will also set the terms of the Scheme and the payment provisions.
- The HR/Employee Relations Department must make the necessary arrangements for the payment of Serious Physical Assault Scheme by notifying the local payroll/personnel administration section to make the appropriate arrangements to have the employee paid. Payment during the initial 6 month period includes basic pay, allowances and premium pay that the employee would have earned if still at work less any social welfare benefits payable.
- During the three month/six month period the line manager/appropriate manager should continue to monitor the sick leave of the employee on a monthly basis in conjunction with the HR/Employee Relations Department. The employee must comply with regular medical assessments to determine their capability to return to work and to identify appropriate measures to facilitate their return.
- In cases where the Occupational Health Physician reports that the employee is unlikely to be fit to return to work for the foreseeable future or is permanently incapacitated then the injury grant scheme (Article 49/109) should be invoked following the procedure outlined in section 5.1 above. The injury grant can be granted for a limited period or for life, as the employer deems reasonable, subject to regular review. Payment of the injury grant is subject to the sanction of the Assistant National Director of Human Resources. The degree of impairment is not applicable to the Serious Physical assault scheme when applying Article 109.

⁴ Note there is a specific appeals process for nurses under the Revised Serious Physical Assault Scheme (see page 12)
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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 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.
- There is provision for an employee to appeal a decision in relation to eligibility to an independent Appeals Board under the Revised Serious Physical Assault. 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, Ms Mary Ruane, HSE CERS offices, 63 – 64 Adelaide Road, Dublin 2.

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).

5.3 Procedures for management of the Pension Rate of Pay

The sick pay regulations for officer grades provide for pension rate of pay where the sick pay limits of 365 days in a continuous period of 4 years have been exceeded, in accordance with Department of Health Circular 10/71. Pension rate of pay equates to the rate of pension the officer would have received in the event of retirement on the grounds of permanent infirmity at the date of application. Payment of pension rate of pay is discretionary. In order to be eligible:

- the officer must have accrued reckonable service in accordance with the current pension scheme rules (currently 5 full years reckonable service);
- have reached the limits of their paid sick leave entitlement;
- there must be a reasonable expectation, based on medical evidence, that the employee will return to duty. There will be a reasonable expectation of return unless medical evidence confirms otherwise.

This scheme only applies to officer grades.

The procedure for applying for pension rate of pay is as follows:

- Where an employee is approaching the end of their paid sick leave entitlement and meets the eligibility criteria for the pension rate of pay scheme the HR/Employee Relations Department will notify him/her about the pension rate of pay and the application procedure.
- The employee must complete HR Form 114 and submitting this form to his/her line manager appropriate manager for recommendation.
- The line manager/appropriate manager must review the application to assess whether the employee is eligible to access the scheme. If deemed eligible the employee must also complete a medical assessment by the Occupational Health Department to indicate the likelihood of his/her return to work as part of the application process.
- The line manager/appropriate manager will forward the application containing his/her recommendation and the Occupational Health report to the General Manager/Hospital Manager for his/her recommendation.
- The application should then be submitted to the Assistant National Director of HR for a final decision on approval and sign off. The pension rate of pay will initially be granted for a defined period (usually 3 months) depending on the circumstances of the case and will be subject to regular review. Further extensions of the pension rate of pay may be granted subject to further application.
- If the application is refused the regional HR/Employee Relations Department must then convey this decision to the applicant and the line manager/appropriate manager along with the reasons for the refusal. If the employee is dissatisfied with this decision then he/she should be advised that he/she can appeal it through the grievance procedure. As the Assistant National Director of HR is the final decision

make the appropriate level to hear an appeal under the grievance procedure would be RDO/National Director.

- If the application is approved the regional HR/Employee Relations Department must convey this decision to the employee and the line manager/appropriate manager. The HR/Employee Relations Department should also request pensions management to calculate the applicable rate of pension rate of pay and notify the employee of this amount.
- Once the payment amount is established the HR Department should contact the local payroll/personnel administration section make the appropriate arrangements to have the employee paid.
- The line manager/appropriate manager should continue to monitor the sick leave of the employee on a monthly basis during the period on pension rate of pay in conjunction with the HR/Employee Relations Department. All efforts should continue to facilitate a return to work as quickly and safely as possible and employees will be required to undergo regular assessments with the Occupational Health Department as a condition of the scheme.
- Where the employee remains unfit for duty, on medical advice, at the end of the approved period of pension rate of pay the employee may apply to have the period extended. HR will notify the employee before the end of the sanctioned period.
- Where medical advice indicates that there is little or no prospect of return to work, the employer will manage the employee in accordance with the Managing Attendance Policy and Procedure.

5.4 Other Long Term Absence Benefit Schemes

TB and extension of sick leave scheme

Department of Health Circular 10/71 provides that where a permanent officer is suffering from tuberculosis and is undergoing treatment, the HSE/Hospital may, extend the sick pay scheme to allow the payment of salary at three quarters the full rate to the officer for the second six months of his/her illness and at half the full rate during the third six months of his/her illness. (Appendix 4.)

MRSA and extension of sick leave scheme

Nurses who are required to remain absent from work due 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 and half of full pay for the third six months. (Appendix 4.)

Blood Borne Diseases

HSE HR Circular 19/2008 in relation to Blood Borne Diseases makes special provisions in relation to employees who are diagnosed with Hepatitis B, Hepatitis C or HIV acquired in the workplace. It provides that following initial screening and diagnosis of Hep B, Hep C or HIV, and medical evidence being produced that this staff member needs to curtail clinical practice and is consequently unable to work, the following pay arrangements would apply for such staff.

- a) Full payment, inclusive of payments accruing for premiums and allowances for a period of six months.
- b) Salary paid in this circumstance will not affect an individual's normal entitlement under the sick pay scheme.
- c) During this six month period the staff member must comply with the co-operation procedures

First Special Extension

If it transpires before the end of the six month period outlined above, that the staff member is unlikely to be able to return to work at the end of this six 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 to apply during this period will be the same as those outlined above and will be approved by the Assistant National Director of Human Resources or their equivalent in non HSE settings following recommendation from the Occupational Health Department and will not exceed a period of three months.

Second Special Extension of Pay

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

Application of article 109 for a period

In exceptional circumstances, at the expiry of the special pay arrangements outlined, article 109 may be invoked for such period as the employer and occupational health department may consider reasonable. Any decision to apply Article 109 for such period will be dependent on the employee agreeing to undergo regular medical assessment as may be deemed appropriate.

6. Terminal illness

In the case of terminal illness it may be necessary to disregard some or all of these guidelines in order to facilitate timely action.



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12 April 2001

Handwritten note: 12/04/2001

DEPARTMENT OF
THE ENVIRONMENT AND
LOCAL GOVERNMENT

General Scheme of Injury Grants under Articles 49 and 109 of the Local Government (Superannuation) (Consolidation) Scheme, 1998

A Chara

GOVERNMENT OFFICES
BAILEINA, CO. MAHO
TELEFÓN: +353 96 24200
FAX: +353 96 24222

1. Introduction

- 1.1 Circular letter S.9/97, dated 16 July 1997, devolved responsibility to health boards and hospitals for the making of injury grants under the special scheme for nurses absent from work as a result of serious physical assault in the course of their duty.
- 1.2 It has now been decided to devolve responsibility for all injury grants (i.e. the general scheme in addition to the special scheme) for health board and hospital staff to health boards and hospitals in accordance with the terms of this circular letter.

2. Grant and Calculation of Injury Allowance

An injury grant **should be granted** where the health board/hospital is satisfied that the conditions set out in article 49 or 109 of the Local Government (Superannuation) (Consolidation) Scheme, 1998 are met. Where a health board/hospital decide to grant an injury allowance, the following procedures should be followed:

- the gross amount should be determined as five-sixths of the remuneration (inclusive of emoluments) of the position in which the person received the injury;
- any other allowance (e.g. pension) payable by the health board/hospital to or

in respect of the person falls to be deducted from the gross amount [see articles 49(2)(a) and 109(2)(a)];

- if the claimant is retiring or has died, the annualised value of the lump sum or death gratuity (divided by 52 for employees) is deducted from the gross amount also [see articles 49(2)(b) and 109(2)(b)]; the lump sum/death gratuity is annualised by establishing the difference between a pension calculated on the basis of 60ths and 80ths, i.e. by dividing the lump sum/death gratuity by 9;
- any relevant benefits or pensions payable under the Social Welfare Acts to or in respect of the person fall to be deducted from the gross amount [see articles 49(2)(c) and (d) and 109(2)(c) and (d)];
- court awards or out of court settlements arising from any action taken by an officer or employee against the health board/hospital on foot of the injury will not affect either the grant of an injury allowance or the amount of the allowance granted;
- in the event of legal action the court and/or all relevant parties should be informed of the amount of the injury grant in payment or to be paid so that this can be factored in to the amount of any award or settlement subsequently made;
- the injury allowance is payable with effect from the date the injury occurred;
- the injury allowance is calculated in accordance with the formula $A \times B$, where -
 - A is the net sum arrived at after the necessary deductions have been made as outlined above and
 - B is the person's degree of impairment (see paragraph 3 below);
- the injury allowance should be revised to take account of increases in the remuneration of the person's post/former post and, if applicable, any relevant social welfare benefits or pensions payable to or in respect of him/her;
- the injury allowance should also be revised in the light of any change in the person's degree of impairment or any additional sums due to the person (e.g. a retirement lump sum and pension if the person retires or resigns after the date the injury allowance commences); where the conditions set out in article 49 or 109 of the Local Government (Superannuation) (Consolidation) Scheme, 1998 are no longer met, the allowance should cease to be paid.

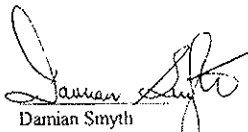
3. Degree of Impairment

In sanctioning cases under the general scheme to date and in the absence of any access to a Chief Medical Officer, this Department has had regard to a person's degree of disability as assessed by the Department of Social, Community and Family Affairs for the purposes of the payment of disablement benefit. In the context of the devolution of responsibility for injury grants under the general scheme to health boards/hospitals, each health board/hospital should arrange its own independent medical assessment of the person's degree of impairment, i.e. **the degree (expressed in percentage terms) to which the person's capacity to contribute to his/her own support is impaired**. The assessment of a person's degree of impairment should be made as soon as possible following the injury.

4. General

- 4.1 It must be stressed that while any pension and lump sum payable to the person are taken account of in determining the amount of the allowance, they are payable in full together with the injury allowance.
- 4.2 Examples of the calculation of an injury allowance under the general scheme are set out in the Appendix to this circular letter.
- 4.3 Any enquiries in relation to this circular letter should be addressed to the Superannuation Section of the Department, Government Offices, Ballina, Co Mayo telephone (096) 24406, 24408, 24409, 24410.

Mise le meas,



Damian Smyth
Assistant Principal Officer
Superannuation Section

To each Health Board and Hospital to which the Local Government Superannuation Code applies.

APPENDIX

CALCULATION OF INJURY ALLOWANCE UNDER ARTICLE 49/109 OF THE LOCAL GOVERNMENT (SUPERANNUATION) (CONSOLIDATION) SCHEME, 1998

Example I

A Revision Scheme officer is injured in the course of his/her duties and has to retire as a result. All the relevant conditions for the payment of an injury allowance are met. He/she has 25 years service inclusive of ill-health added years.

Pensionable Remuneration	=	£18,000
(I) 5/6 of P.R.	=	£15,000
(II) Annual Pension (£18,000 x 25/80)	=	£ 5,625
(III) Lump Sum (=£16,875, i.e. £18,000 x 25 x 3/80) Annualised value = £16,875/9	=	£ 1,875
(IV) Social Welfare Disablement Benefit £ 50 p.w. (£50 x 52.18)	=	£ 2,609
(V) I - (II + III + IV)	=	£ 4,891
(VI) Degree of Impairment	=	60%
(VII) Net injury allowance (60% of £4,891)	=	£2,934.60

In this case the officer is paid a pension of £5,625 a lump sum of £16,875 and an injury allowance of £2,934.60.

Example II

The officer in Example I is subsequently assessed as 70% impaired/disabled. At that point, the pensionable remuneration applicable to the person's former office is £21,000. The injury allowance falls to be adjusted as follows:

Pensionable Remuneration	=	£21,000
(I) 5/6 of P.R.	=	£17,500
(II) Annual Pension (£21,000 x 25/80)	=	£ 6,562.50
(III) Lump Sum (=£16,875, i.e. £18,000 x 25 x 3/80) Annualised value = £16,875/9	=	£ 1,875 (original value applies)
(IV) Social Welfare Disablement Benefit £ 65 p.w. (£65 x 52.18)	=	£ 3,391.70
(V) I - (II + III + IV)	=	£ 5,670.80
(VI) Degree of Impairment	=	70%
(VII) Net injury allowance (70% of £5,670.80)	=	£3,969.56

Example III

A Revision Scheme employee is fatally injured in the course of his/her duties. All the relevant conditions for the payment of an injury allowance are met. He/she has 10 years' service and when potential service to age 65 is taken into account, 40 years' service is reckonable for spouses' and children's pension benefits. The employee leaves a spouse and 3 children under the age of 16.

Pensionable Remuneration (weekly)	=	£420
(I) 5/6 of P.R.	=	£350
(II) Spouse's Pension $[1/2 \times (\text{£}420 - 212\{2 \times \text{OAP}\}) \times 40/80]$	=	£ 52
(III) Children's Pension $[3/6 \times (\text{£}420 - 212\{2 \times \text{OAP}\}) \times 40/80]$	=	£ 52
(IV) Gross Death Gratuity = £21,840 Annualised value = $\text{£}21,840/9 = \text{£}2,426.67$ Weekly value = $\text{£}2,426.67/52$	=	£ 46.67
(V) Social Welfare Widow's Pension p.w.	=	£ 140.10
(VI) I - (II + III + IV + V)	=	£ 59.23

In this case the employee's spouse is paid an injury allowance of £59.23 per week by the local authority in addition to the death gratuity and spouse's and children's pension benefits.

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20-JAN-2004 17:54 FROM

HEALTH SERVICE EMPLOYERS AGENCY

HEALTH SERVICE EMPLOYERS AGENCY → 3531146714508

→ HEALTH SERVICE EMPLOYERS AGENCY; Page

TO 6626977

P.02

NO. 492 1892

15 September, 1995

Chief Executive Officer,
Each Health Board

DEPARTMENT
OF HEALTH
AN BUREAU
SAINTÉ

Shaping a
Healthier Future

Re: Scheme for Staff employed by Health Boards absent from work as a result of a serious physical assault incurred in the course of his/her duty

I am directed by the Minister for Health to convey approval to the extension of the following Scheme to Clerical/Administrative and analogous grades and to Para-Medical professions employed in Health Boards absent from work as a result of a serious physical assault incurred in the course of their duties. The terms of this Scheme apply, with effect from 1 July 1993, to all such staff who are members of the Local Government Superannuation Scheme. Please note that Child Care workers, House Parents and Superintendent/Community Welfare officers are comprehended under the Scheme.

Pay

Salary may be paid during an absence resulting from a serious physical assault in the course of duty as follows:

- (a) Full pay based on the earnings he/she would have earned if still at work and working the hospital/community approved hours.
- (b) Such full pay which would include basic pay, allowances and primum earnings may be paid for a period of up to 6 months.
- (c) Payment made under (b) above shall be reduced by the amount of any benefit under the Social Welfare Code the applicant is entitled to arising from absence due to the injury.
- (d) Salary paid in the circumstances outlined above will not affect an applicant's entitlement under the Sick Pay Scheme.

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20-JAN-2004 17:55 FROM

18/01/04 09:56

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-> HEALTH SERVICE EMPLOYERS AGENCY; P

TO 6626977

P.03

NO.492



DEPARTMENT
OF HEALTH
AN ROINN
GAIRTE

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Healthier Future

- 2 -

Article 52 of the Local Government (Superannuation Revision) (Consolidation) Scheme 1986 (corresponds to Section 52 of the Local Government (Superannuation) Act, 1956 which is now repealed.

After the expiration of the special sick pay outlined at paragraph 1, Article 52 may be invoked.

(a) This article of the Scheme will be applied to provide for an allowance in money for life or for a limited period as the health board/health agency may consider reasonable where the injury occurred:

(i) in the actual discharge of his/her duty, and

(ii) without his/her own default, and

(iii) by some injury attributable solely to the nature of his/her duty.

(b) If, within seven years after the date of the injury, s/he dies as a direct result of the injury the health board/health agency may grant to his/her widow/widower or father/mother if wholly dependent on him/her at the time of death and to or in respect of his/her children, or any of them such allowance in money for life or for a limited period as the health board/health agency may consider reasonable.

(c) The allowance may not exceed 5/6ths of remuneration inclusive of the money value of emoluments of the position in which s/he received the injury. The 5/6ths allowance will be reduced to take account of:

Hawkins House Dublin 2

15th Floor, Ballsbridge Park

Telephone: (01) 671 0111

Telex: 3395 Fax: (01) 671 1937

Received: 20/ 1/04 4:18PM;

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TO 6626977

P. 04
NO. 492



DEPARTMENT
OF HEALTH
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- 3 -

- (i) any other allowance payable by the health board/health agency e.g. where the individual subsequently ceases to hold office on permanent ill-health grounds;
 - (ii) any lump sum or gratuity so payable, including a retirement lump sum and
 - (iii) any benefit payable under the Social Welfare Code, including workmen's compensation, injury benefit, disablement benefit, widow's pension.
- (d) The award of any injury allowance will be subject to the approval of the health board/health agency in each case within the general sanction of the Minister for Health. The review of any award would also be a matter for the health board/health agency, including any considerations of ill-health retirement where, on the basis of medical evidence, it appears that the person is permanently unfit to return to work.
- (e) The period an individual is in receipt of an allowance under (c) above will not count as reckonable service for superannuation purposes.

3. Hospital Expenses

Expenses incurred by the individual 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.

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-> HEALTH SERVICE EMPLOYERS AGENCY; Page 5

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TO 6626977

P.05

17/01/04 17:57

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NO. 492 P.05

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DEPARTMENT
OF HEALTH
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(b) General Practitioner, Casualty and Consultant visits.

(c) Prescription charges.

Individuals will be obliged to claim under medical insurance schemes where appropriate (e.g. VHI, Refund of Drug Schemes etc.) and any payments made by the health boards/health agency under 2 above will be solely in respect of excess expenditure by the individual. Payments made under 1, 2 and 3 above do not confer any admission of liability on the part of a health board/health agency.

Temporary Staff

Where a temporary clerical/administrative officer or any other individual mentioned above is absent resulting from a serious physical assault in the course of his/her duty, the employing authorities will deal sympathetically with each individual case.

Any queries arising from the above should be referred to the Personnel Unit of the Department.

Brendan Phelan
Personnel Management & Development



* Letters posted & faxed 9/1/02 - (EF)

Health Service Employers Agency
63-64 Adelaide Road
Dublin 2
Tel: 01 662 6966
Fax: 01 662 6977
email: info@hse.ie

4th January 2002

Director of Human Resources

Re: Revised Serious Physical Assault Scheme

A Chara,

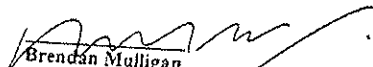
I attach for your information and attention Revised Serious Physical Assault Scheme. The Scheme is a revision of the 1994 Scheme and will come into effect on the 1st of January 2001.

The Revised Scheme sets out in detail the procedure to be adopted in situations where a nurse is the subject of a serious physical assault in the work place and the appropriate salary to apply.

Every effort should be made to ensure that all line managers are familiar with the scheme and that it is operated in a consistent and transparent fashion.

If you have any enquires regarding the Revised Scheme, please contact the undersigned.

Yours sincerely,


Brendan Mulligan
HEAD OF INDUSTRIAL RELATIONS

E06m/0092

REVISED SERIOUS PHYSICAL ASSAULT SCHEME

(Guidelines on the operation of the scheme for employees who are absent from work as a result of a serious physical assault incurred in the course of their duty)

Commencement Date

- *The Serious Physical Assault Scheme will come into effect on 1st January 2001.*

Eligibility

- *All nurses both permanent and temporary who are absent as a result of a serious physical assault, in the workplace, in the course of their duty.*
- *This scheme will be applied to a nurse who is injured;*
 - (a) in the actual discharge of his/her duty.*
 - (b) without his/her own default,*
 - (c) by some injury attributable solely to the nature of his/her duty.*

Rules

- (i) The Serious Physical Assault Scheme will be initiated on foot of a report of the assault. The report should be completed by the ward manager and forwarded to the Occupational Health Department. A copy of the report should also be forwarded to the Director of Nursing and personnel department.
- (ii) Medical care will be provided as soon as possible thereafter. Counselling assistance will be provided if appropriate.

Sick Pay

1. A nurse may be paid salary during an absence resulting from a serious physical assault in the course of his/her duty as follows:
 - (a) Full pay based on the earnings a nurse would have earned if still at work and working the hospital/community approved roster.
 - (b) Such full pay which would include basic pay, allowances and premium earnings may be paid for a period of up to six (6) months.
 - (c) Payment made under (b) above shall be reduced by the amount of any benefit under the Social Welfare Code the nurse is entitled to arising from

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absence due to the injury. The employee will be assisted regarding social welfare entitlements.

- (d) Salary paid to a nurse in the circumstances outlined above will not affect a nurse's entitlement under the Sick Pay Scheme.

2. Medical Assessments

During the six month period the recipient must undertake to comply with regular medical assessment including independent medical assessment as may be deemed appropriate by the Occupational Health Department. The recipient will be expected to co-operate fully with rehabilitation measures that may be recommended.

3. First Special Extension of Sick Pay

If it transpires before the end of the six months special payments period as outlined in Paragraph 2, that based on a medical review, no later than six (6) weeks into the period of absence that a return to work is unlikely within this six month period or immediately thereafter, but there remains a reasonable expectation that the nurse will return to work, a First Special Extension may be granted.

The Director of Nursing in conjunction with the Occupational Health Department may seek a special extension for payment arrangements as outlined in paragraph 1 above. This extension will not exceed a period of three (3) months

4. Second Special Extension of Sick Pay

Notwithstanding point 3 above, if it transpires after medical evidence no later than six (6) weeks into the first special extension that a return to work is unlikely during this three month period or immediately thereafter, but there still remains a reasonable expectation that the nurse will return to work, a further final extension may be granted. The special extension will provide for payment of basic pay only. The second extension will not exceed a period of three months.

5. Application of Article 109 for a Limited Period

As the two special extensions will only be granted in instances where a return to work is highly probable, it is therefore anticipated that limited application of Article 109 will only be implemented in exceptional circumstances and for a limited period as the Board and Occupational Health Department may consider reasonable. Any decision to apply Article 109 for a limited period will be dependant on the employee agreeing to undergo regular medical assessment as may be deemed appropriate. The decision to invoke Article 109 will be granted and paid in accordance with paragraph 6 of the scheme.

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6. Application of Article 49/109 for an Unlimited Period

Where the staff member has not recovered or is certified permanently incapacitated based on medical reviews the Occupational Health Department in conjunction with the Director of Nursing, will refer the matter to the Personnel Department where arrangements will be made to invoke Article 109 of the Local Government Scheme i.e. Injury Grant Scheme: 5/6 of basic salary.

(i) The Injury Grant Scheme will not exceed 5/6ths of remuneration (inclusive of the money value of emoluments) of the position in which he/she received the injury. The 5/6ths allowance will be reduced to take account of -

(a) any other allowance payable by the health board (e.g. where the nurse subsequently ceases to hold office on permanent ill-health grounds).

(b) any lump sum or gratuity so payable (including a retirement lump sum) and

(c) any benefit payable under the Social Welfare Code (including workmen's compensation, injury benefit, disablement benefit, widow's pension).

(d) The Injury Allowance should be revised to take account of increases in the remuneration of the persons post/former post and, if applicable, any relevant social welfare benefits or pensions payable to or in respect of him/her.

(e) The injury grant may be for a limited period, as the Board may consider reasonable. In addition the injury grant should also be revised in light of any change in the persons degree of impairment. Any additional sums due to the person (e.g. a retirement lump sum and pension, if the person retires or resigns after the date the injury allowance commences); where the conditions set out in Article 109 of the Local Government (Superannuation) (Consolidation) Scheme 1998 are no longer met, the allowance should cease to be paid.

7. If within seven (7) years after the date of the injury s/he dies as a direct result of the injury the health board may grant to his/her widow/widower or father/mother if wholly dependent on his/her at the time of death and to or in respect of his/her children, or any of them such allowance in money for life or for a limited period as the health board may consider reasonable.

8. Hospital Expenses

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

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- (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

Nurses will be obliged to claim under medical insurance schemes where appropriate (e.g. V.H.I. Refund of Drug Schemes, etc) and any payments made by the Health Boards in respect of hospital expenses will be solely in respect of excess expenditure by the nurse. Payments made under this scheme do not confer any admission of liability on the part of a Health Board.

In exceptional circumstances an employee may be refunded in respect of expenditure incurred for private treatment.

9. Employee Welfare

Employers will keep in regular contact with employees who are beneficiaries of the Scheme and will continue to offer assistance and advice on this Scheme or any Employee Welfare matter.

10. Appeals Mechanism

An employee may reserve the right to appeal a decision in relation to eligibility under the Serious Physical Assault Scheme. It is proposed that a two person independent adjudication process (one trade union and one management nominee) will be established for this purpose.

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Officers Sick Pay Scheme

The sick pay scheme which applies to "officer grades" in the HSE is based on the provisions set out in **Department of Health Circular No.10/71**.

Salary during sick leave may be paid to officers in accordance with the following provisions:

- a) Except in the case mentioned in sub-paragraph (d) no salary shall be paid to an officer when the sick leave granted to such an officer during any continuous period of four years exceeds in the aggregate 365 days.
- b) Subject to limitation mentioned in sub-paragraph (a), salary may be paid to an officer at the full rate in respect of any days sick leave unless, by reason of such payment the period of sick leave during which such officer has been paid full salary would exceed 183 days during the twelve months ending on such day.
- c) Subject to the limitation mentioned in sub-paragraph (a) salary may be paid at half the full rate after salary has ceased by reason of the provision in sub-paragraph (b) to be paid at the full rate.
- d) If before the payment of salary ceases by reason of the provision in sub-paragraph (a) the Minister so consents, salary may be paid to a pensionable officer with not less than five years service notwithstanding the said sub-paragraph (a) at either half the full rate or at a rate estimated to be the rate of pension to which such officer would be entitled on retirement, whichever of such rates shall be the lesser.
- e) For the purposes of these provisions, every day occurring within a continuous period of sick leave shall be reckoned as part of such period*.

The sick pay provisions under Circular 10/71 may be extended in the following circumstances:

TB

Where an officer is suffering from tuberculosis (TB) and is undergoing treatment, sick leave may be extended to allow the payment of salary at three quarters the full rate to the officer for the second six months of his / her illness and at half the full rate during the third six months of illness.

Nurses who are absent due to MRSA

Nurses who are required to remain absent from work due 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 30th November 2006**