



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Oifig an Stiúirthóra Náisiúnta, Acmhainní Daonna
Feidhmeannacht na Seirbhíse Sláinte
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All Queries:

Please see pg 8 section 39 of this circular

HSE HR Circular 011/2013

May 7th 2013

To: Each Member of Management Team, HSE;
Each Regional Director of Operations;
Each Assistant National Director, NHO, HSE;
Each Employee Relations Manager, HR, HSE;
Each Area Redeployment Manager, HSE
Each CEO Voluntary Agency/Hospital
Each HR Manager Voluntary Agency/Hospital

**Employment Control Framework – Numbers Reduction Measures 2013
Incentivised Career Break Scheme [2013]**

Dear Colleague,

In order to contribute towards the numbers reduction required under the 2013 Employment Control Framework as well as a corresponding reduction in expenditure, the HSE, as well as bodies funded by the HSE, under Section 38 of the Health Act 2004 may approve applications from staff for leave under an Incentivised Career Break Scheme [2013]. While the operation of the scheme will be subject to the operating requirement that services are not significantly adversely affected, the scheme is a tool to assist managers to achieve the reduction required in the current year while delivering the agreed level of service. Therefore applications for career breaks under this scheme should be facilitated to the greatest extent possible. The terms of this scheme, the details of which are set out below and hereafter referred to as an 'ICB', should be implemented across all parts of the HSE as well as bodies funded by the HSE under Section 38 of the Health Act 2004.

DOHC Circular S/146/99

1. This Circular does not supersede DOHC Circular S/146/99 and associated letters, dated 16 March 1984, 27 November 1984, 26 August 1987, 30 March 1989 and 7 November 1990, 1 May 2013 and 3rd May 2013 and persons may continue to apply for career breaks under that circular. Staff who, on the date of this Circular, have commenced a career break or have signed a career break undertaking under Circular S/146/99, may not opt to have the terms of this Circular applied to them.

Incentive payment

2. Successful applicants for an ICB will be paid an incentive payment of one third of gross basic pay up to a maximum of €12,000, per year, pro-rata to hours worked and payable quarterly in arrears, for each year of the ICB. The amount payable is subject to tax and other statutory deductions. An individual must settle any outstanding liabilities [e.g. imprest; any overpayment of salary] with the HSE in advance of commencing the ICB; alternatively the first payment of the incentive allowance will be reduced accordingly.

Decision making process/Oversight arrangements

3. In order to ensure that the maximum level of ICBs is facilitated, the HSE must put in place arrangements to ensure that the final decision in relation to ICB applications is made at a level no lower than regional senior management level. The HSE must also ensure that it has full information on the number and type of applications from employees of Section 38 providers and must put in place arrangements, including appropriate HSE involvement in the decision-making process to ensure that the scheme operates in a manner that maximises uptake in these bodies.
4. Applications for ICBs should be facilitated to the maximum extent possible, however, the needs of the business / service may require that some applications in exceptional cases will have to be refused or deferred, the business reasons for which must be clearly documented.
5. The operation of the ICB scheme is subject to the operating requirements of the HSE not being significantly adversely affected; in particular that essential service provision is not undermined. Managers may, for business / service reasons, prioritise between applications, having regard to the level of saving achieved by granting certain applications, the location or business area of the person[s] applying, and any other relevant matter eg
 - if the applicant has specialist or hard-to-replace skills or competencies,
 - if s/he is in a particular location or business area where high work demands are expected over the term of the ICB or where there have been a number of applications for the scheme,
 - the overall size and /or structure of the work or organisation and the challenge of distributing or reallocating the work / duties of the employee
6. An application for an ICB under this scheme may also be refused or deferred if there is a potential conflict of interest between the activity in which the employee proposes to engage or engages in during his/her ICB and his/her position in the organisation,

Operation of the scheme

7. An application for an ICB must be made through the HSE website at www.hse.ie, no later than 31st May 2013.
8. Employees will be advised if their application for an ICB has been approved, or otherwise, on or before the 18th June, 2013. Decisions are final and not subject to appeal.
9. All ICBs should commence by the 1st July 2013 having regard to the limitations set out in paragraph 4 & 5 above. Any deferrals should not extend beyond the 31st of December, 2013.
10. The HSE must submit details of the number of applications received, whether they have been granted, deferred or refused; the cost of payments under the Scheme as well as the projected savings made. This reporting requirement will be coordinated by a Central Processing Group [CPG] in HSE HR Shared Services.

Eligibility

11. Employees, who have satisfactorily completed two years' continuous service [periods of special leave without pay in accordance with Maternity Protection Legislation, Adoptive and Carer's Leave and Parental Leave should not be considered to break continuity of service for this purpose] on the date of commencement of an ICB may apply, provided that:
 - the duration of an ICB under this scheme will not extend beyond their minimum retiring age, if applicable
 - the duration of an ICB will not extend beyond the date for termination of a fixed term contract
12. Where a previous career break was availed of, the person must have served, since their return from the earlier career break, for a period equal to the duration of that career break. In exceptional cases this period of service requirement between career breaks may be waived, however, a person, who previously availed of an incentivised career break, is not eligible for a career break under the terms of this ICB scheme.
13. Where disciplinary action has been initiated against an applicant [and the application would not otherwise be refused in line with the above restrictions], the decision on the application should be deferred pending a resolution of the disciplinary issue.

Purpose of ICB & Conflict of Interest

14. A career break may be allowed for family reasons, other domestic purposes, travel abroad, volunteering overseas, self-employment or educational purposes. An ICB is not available for taking up paid employment in the State, with any agency or company providing services to a publically funded body in the State, or for educational purposes where the student/trainee is in an employment relationship with the training body and is in receipt of a normal salary/wage.
15. While on an ICB an employee retains his or her public servant status and is subject to all relevant legislation and codes. There should be no potential conflict of interest between the activity in which the employee proposes to engage or engages in during his/her ICB and his/her position in the HSE [e.g. it should not involve, or be perceived to involve, the use of

confidential information gained in the course of HSE official work; it should not improperly influence the employee in the discharge of his/her duties; it should not compromise, or be perceived to compromise, the employee's official position on return from an ICB].

16. The employee should not undertake any consultancy work, or provide any service in return for payment, for his/her own organisation or any other public body while on an ICB. In order to ensure that the application complies with the above requirements, employees applying for an ICB for self-employment reasons must submit to the HSE full details of the nature of the self-employment, and an outline of their proposed business contacts and proposed client/customer base where appropriate. Any change in the nature of self-employment must also be notified to and sanctioned by the HSE. The employee may be subject to disciplinary proceedings and may be subject to penalties up to and including dismissal, for failure to notify in accordance with this paragraph.
17. If it comes to the attention of the HSE that an employee has taken up employment, or is otherwise engaged in activity during his/her ICB, which is inconsistent with, or may cause a conflict of interest with, his/her position in the organisation, the HSE will contact the employee in writing, stating that the employee must, within two weeks, either:
 - cease that employment or stop engaging in that activity and advise the employer in writing that s/he has so done, or
 - advise the employer in writing that s/he is not engaged in that employment or that s/he is not engaged in that activity or
 - if s/he is engaged in that activity, advise the employer of the reasons why the activity is not inconsistent with, or does not cause a conflict of interest with, his/her position in the organisation.

The HSE shall indicate to the employee that, if s/he does not cease the employment or respond as required, or if, following consideration of the response, the HSE considers that the employee is employed, or is engaged in activity which is inconsistent with his/her position in the HSE or may cause a conflict of interest with that position, the HSE will notify the employee, giving him/her two further weeks to advise the HSE in writing that either s/he has ceased the activity or employment concerned or is applying for a meeting with their Area HR Department to make submissions on the matter, following which period [or meeting if held] the Area HR Department will decide the matter.

In the event that the employee fails to respond in writing to the HSE within the two week period or fails to cease the activity or employment concerned or where the Area HR Department so decides following the period or any meeting, the employer will immediately invoke the undertaking to resign from the organisation. The HSE should advise the employee that they will receive no further incentive payment if the undertaking is invoked and may seek a refund of any incentive payment made.

18. On return to duty, or in the event that it comes to the attention of the HSE, following return from an ICB, that an employee was employed or has engaged in activity during his/her ICB which was inconsistent with, or may cause a conflict of interest with, his/her position in the organisation, the employee will be subject to disciplinary proceedings and may be subject to penalties up to and including dismissal, including the refund of any incentive payment made.

Duration/Extension of career break

19. An ICB will be for a period of three years [subject to paragraph 33 below].
20. ICBs must start no later than the 1st of July 2013, except:
 - in the case of a person on maternity leave on 1st of July 2013, it will begin on the date the maternity leave ends, or
 - if the organisation, for stated business reasons, notifies the applicant, in writing, that the commencement of the ICB must be deferred to a specified date, which shall be no later than 31st December, 2013
 - if a decision is deferred in accordance with paragraph 13 of this circular [disciplinary action]
21. A person may apply for an extension of the career break in accordance with Circular S146/99 and associated letters listed above, which will then become the applicable circular. No incentive allowance will be paid in respect of any period of extension of a career break. The total period of special leave without pay must not exceed eight years in all.

ICB non-reckonable as period of service

22. The period of an ICB will not count as service and will not reckon for incremental credit or towards qualifying service for annual leave or promotion. Neither the special leave nor the incentive payment will count for superannuation purposes. However, an employee may, in certain circumstances, have the period reckoned for superannuation purposes by making a contribution of an appropriate percentage of salary. Participants may not avail of any form of paid leave [e.g. sick leave] during an ICB.

Filling of vacancies

23. The HSE should normally reallocate or re-organise work or staff, where any vacancy arises under this scheme. The filling of vacancies arising through persons availing of special leave will be subject to current Government policy on public service numbers and, in particular, the moratorium on recruitment and promotion. A vacancy may only be filled by redeployment. A vacancy may not be filled by recruitment, an acting up arrangement, overtime or through agency/contract working.

Promotion and other appointments

24. Persons availing of an ICB will not be eligible for promotion and will not be notified of competitions. They may however, apply for open recruitment competitions in other disciplines or staff categories for which they are eligible [i.e. disciplines/grades other than their current grade]. If offered an appointment as a result of the competition, they will be required to end the ICB. No further incentive payment will be paid from the date that they take up appointment. They will be required to resign their current position.
25. The starting pay on appointment, from the open competition, of an employee on an ICB, will be calculated as though s/he were a new entrant at the time of the appointment. As stated in paragraph 22 above, the period of absence on an ICB will not count as service.

Return to duty

26. Employees are required to contact the HSE HR Shared Service, CPG, in writing, at least three months before expiry of the ICB, to indicate whether they wish to [a] resume duty on expiry of the ICB, [b] apply for a career break under paragraph 21 [if appropriate] or [c] resign from the organisation. Where an employee fails to contact the HSE before the expiry of the ICB, s/he will be deemed to have resigned from the organisation from the date of the expiry of the ICB. Before the commencement of the ICB employees will be required to sign an undertaking to confirm their acceptance of these terms and the terms and conditions of the ICB Scheme [2013].
27. An employee, who indicates s/he wishes to resume duty, will be assigned to the next appropriate vacancy to be filled following the expiry of the ICB, with a guarantee of reemployment in a relevant grade [not necessarily in his/her existing work location] within twelve months of the expiry of the ICB. An appropriate vacancy, for these purposes, is a vacancy approved for filling, in the employee's grade in the location in which he/she was serving immediately prior to commencing the ICB. In the context of this Circular, "location" means within the local catchment / Hospital Group area or within a 45km radius of their current work location/home address, whichever is the shorter commute, with the Dublin area being treated as one such location [or other definition as may be in force at the time of return.]
28. Where an appropriate vacancy exists, or where it is known when one will arise, and the employee has indicated that s/he wishes to resume duty in accordance with paragraph 26, the CPG will advise the relevant HSE HR Department who should contact the employee, giving him/her reasonable notice of the date for resumption of duty, bearing in mind the employee's circumstances and making it clear to the employee that, if s/he fails to report for duty on that date, the HSE reserves the right to accept his/her formal offer of resignation from the organisation. In the event of the employee failing to report for duty on that date, the HSE HR Department should contact him/her to inform the employee that the terms of the undertaking have been invoked and that the employer accepts his/her resignation with effect from the last day of the ICB. An employee may not defer reporting for duty on the grounds that s/he has requested a change of location or work pattern [see paragraph 29 and 30 below]. In the event that a person claims that they cannot resume duty on the grounds of illness, they should be referred immediately to the relevant Occupational Health department.
29. Where an appropriate vacancy does not exist, the HSE HR Department should contact the employee at once to notify him/her of the position, indicating, where possible, when it is likely that a suitable vacancy may arise. Where it is likely that the employee may be reassigned to a different location [see paragraph 27], the HSE HR Department should alert him/her to that possibility. Employees, who are waiting to resume duty at the end of their ICB, should be advised to contact the Department of Social Protection to ascertain whether or not they have any entitlements to jobseekers or any other benefits.
30. Where an employee fails to contact or respond, or report for duty, as required under paragraph 26 or 28 above, s/he will be deemed to have resigned from the date of the expiry of the ICB. The HSE HR Department should inform the employee, in writing to his/her last known address, that the employer accepts his/her resignation with effect from the last day of the ICB, without further notice being given to the employee. As specified in the undertaking referred to in paragraph 26 above, the onus is on the employee to ensure that HSE HR Department have been supplied with an up-to-date contact address and telephone number.

31. In view of the serious consequences which may arise as a result of non-compliance with the terms of the undertaking with regard to resumption of duty, the HSE HR Department should ensure that correct procedures are followed, that written correspondence is sent by registered post, and that the employee on ICB is kept informed at all times of the steps being taken of the current position. This applies to any employee whose ICB is coming to an end, regardless of whether or not they have indicated that they wish to resume duty.
32. If more than one employee in the same grade and location is on a career break either under DOHC circular S/146/99 and associated letters as listed above, or an ICB, the order of priority in timing each return will be based on the chronological order in which the respective career breaks expire and, if necessary, on the chronological order in which the respective career breaks commenced and seniority [if necessary].
33. Once an employee has indicated that s/he is available to return to duty, any time spent waiting for re-employment after the expiry of the ICB [other than any delay on the part of the employee] will reckon as part of the career break period other than for purposes of the overall limits relating to duration of career breaks. No incentive payment will be payable in respect of any time spent waiting for re-employment. There is no preclusion on seeking employment elsewhere while awaiting resumption of duty, subject to the avoidance of any conflict of interest between such employment and the person's continuing status as a public servant. Any doubt about what constitutes a conflict of interest should be referred to the CPG.
34. An employee does not have an entitlement to return to duty in a location other than that in which s/he was serving on commencement of the ICB. However, the HSE will endeavour to facilitate requests for change of location where feasible and subject to any applicable transfer requirements.
35. An employee does not have an automatic right to return to duty in a work-sharing [or part-time] capacity, even if s/he had been before commencing the ICB. However, the HSE will endeavour to facilitate such requests where feasible.
36. A person on an ICB may, for exceptional reasons related to family hardship, apply to resume work no earlier than 6 months after commencing the ICB. The employer may, at his/her discretion, allow an employee to resume duty before the expiry of his/her ICB, provided s/he is satisfied that there are exceptional reasons related to family hardship, it is in the interests of the work of the organisation, that there is a vacancy approved for filling in the relevant grade in the organisation and it does not disadvantage another employee by reference to the order of priority outlined in paragraph 32 above. No further incentive allowance will be paid to the employee and any incentive payment received shall be refunded on a pro-rata basis.

Superannuation Arrangements

37. As stated in paragraph 22 above, the period on an ICB does not reckon for superannuation purposes. However, an employee may, in certain instances, have the period reckoned for superannuation purposes by making a contribution of an appropriate percentage of salary. As the arrangements and the percentage of salary may differ depending on an employee's individual circumstances, employees are advised to clarify the position with their Area HR department prior to commencing the ICB.

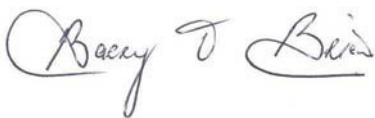
Social Welfare Arrangements

38. As the arrangements, if any, for payment of certain social welfare contributions, or receipt of certain social welfare benefits or allowances, while on an ICB, may vary from time to time, employees are advised to check out their own individual situations with the Department of Social Protection prior to commencing an ICB and to check, periodically, as to the up-to date position.

Queries

39. Employees are advised to contact their local HR Department who will be responsible for dealing with personal queries from individual employees in relation to this circular. Requests for clarification from Section 38 providers as well as local/regional HSE management should be directed to the CPG at npr.cpg@hse.ie

Yours sincerely



Barry O'Brien,
National Director of Human Resources.