



## SCOTTISH EXECUTIVE

Health Department  
Human Resources Directorate

NHS  
HDL (2004) 03

Dear Colleague

### PRO RATA ENTITLEMENT TO PUBLIC HOLIDAYS FOR PART TIME WORKERS

#### Summary

1. The [Part-time Workers \(Prevention of Less Favourable Treatment\) Regulations 2000](#) came into force on 1 July 2000. These regulations ensure that part-time workers are not treated less favourably in their contractual terms and conditions than comparable full-time workers, unless different treatment is justified on objective grounds.
2. In recognition of the need to ensure part-time workers are treated in line with the Part Time Workers Regulations 2000, NHS Scotland and the Trade Unions and Professional Organisations have now reached an agreement on the introduction of a pro rata entitlement to public holidays for part-time workers. This agreement means that all part-time workers regardless of pattern of work, with effect from 1 July 2000 will have a pro-rata entitlement to public holidays compared to full-time workers.
3. Chief Executives in NHS employing authorities, in partnership with the appropriate Trade Unions and Professional Organisations, will ensure the implementation of this agreement and monitor its effectiveness.

**22<sup>nd</sup> January 2004**

#### Addresses

##### For action

Chief Executives of NHS Trusts,  
Boards and Special Health Boards.

##### For information

Chairs of NHS Trusts, Boards and  
Special Health Boards.

Directors of Human Resources, NHS  
Trusts, Boards and Special Health  
Boards.

Directors of Finance, NHS Trusts,  
Boards and Special Health Boards.

Members Scottish Partnership Forum

Members Human Resources Forum

Chairs of Area Partnership Fora

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## **Implementation Arrangements**

### **Retrospective Compensation**

4. For the period 1 July 2000 to 31 March 2004, any part-time member of staff who has been disadvantaged as a consequence of the current NHS Scotland policy on pro rating of public holidays, will be compensated as part of this agreement.

5. Individuals will receive a lump sum payment equivalent to the outstanding entitlement due. This payment will be calculated using the relevant rates of pay for each of the years being compensated. Such payment will be subject to the normal deductions for tax, National Insurance and superannuation, where appropriate. All staff will receive this payment no later than 31 March 2004. In addition there will be an option for staff, should they choose, to take the outstanding days due to them, for 2003/2004 only, as days instead of a payment.

6. To calculate the outstanding entitlement, the same calculation as outlined in points 10 and 11 below should be used. For calculation purposes, the full-time public holiday entitlement agreed for each of the years is as follows :

2000/2001 – max of 10 minus the public/local holidays taken between 1 April to 30 June 2000  
(Regulations only came into force 1 July 2000)

2001/2002 – max of 10

2002/2003 – max of 11 (includes Golden Jubilee Holiday)

2003/2004 – max of 10

In Trusts and Boards where local agreement has converted some public holidays into annual leave, the pro-rata entitlement should be calculated on the appropriate full time equivalent.

7. Employing Authorities will require to identify, through line managers, using the methodology above, for all part time staff, an analysis of what an individual's entitlement would have been under the pro rata formula, against their actual entitlement for each of the years identified above. Where staff have been disadvantaged, the outstanding entitlement for each of the years, along with the appropriate hours to be paid will require to be notified to local Payroll Departments and the appropriate compensation payment made.

8. For the period 1 July 2000 to 31 March 2004 for those staff where it is identified that they have received a greater number of public holidays than their actual entitlement, this will be given on the basis of personal protection. However, from 1 April 2004, the correct entitlement will apply.

### **Prospective**

9. From 1 April 2004, all part time staff employed in NHS Scotland will receive a pro-rata entitlement to public holidays compared to full time workers.

10. For part time staff who work the same number of hours per day and the same number of days per week, the entitlement should be calculated as follows:

days worked per week/5 x 10 = public holiday entitlement.

For example a Domestic Assistant who works 15 hours a week, 5 hours on a Monday, Wednesday and Friday would be entitled to  $3/5 \times 10 = 6$  public holidays.

11. For part time staff who work different hours on different days, the entitlement would be calculated in hours as follows:

total hours worked/full time hours  $\times$  (10  $\times$  full time hours/5) = total hours of public holiday entitlement.

Although the above is the actual calculation a simpler version of this calculation is as follows:

total hours worked per week  $\times 2$  = total hours of public holiday entitlement.

For example a Secretary working 20 hours per week with different hours each day would be entitled to  $20 \times 2 = 40$  hours of public holidays.

12. This method of calculation of entitlement will also apply from 1 April 2004 to those existing part time staff, where by the nature of their pattern of work previously they would have received a higher number of public holidays.

13. Where part time staff normally work on days that are often designated as public holidays (eg Monday or Friday), their public holiday entitlement, calculated above, should be used to take the relevant public holidays until such times as this entitlement is exhausted. Should a member of staff have exhausted their entitlement in any one year and there are further public holidays they will either require to use annual leave or alter their working days for the particular week that includes the public holiday.

14. Where part time staff normally work days that are not often designated as public holidays (eg Tuesday, Wednesday, Thursday, Saturday or Sunday), their public holiday entitlement, calculated above, should normally be added to their annual leave entitlement in any given year. However, the provisions of paragraph 14 above will apply where a public holiday falls on a day that they would normally have been due to work.

15. The above will apply to all groups of staff, with the exception of those Nursing staff who have opted under Whitley Council terms and conditions for the Annual Leave option that includes public holidays. However, with effect from 1 April 2004, staff who previously had accepted this option will be given the opportunity to transfer to the option where annual leave and public holiday entitlements are calculated separately. The agreement will also not apply to those staff covered by [PCS \(DD\) 2001/6](#) Pay and Conditions of service for Dental Public Health, Community Dental Staff and Salaried General Dental Practitioners.

Yours sincerely



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Director of Human Resources



**NATIONAL HEALTH SERVICE  
DIRECTION VARYING APPROVED CONDITIONS OF SERVICE**

1. Scottish Ministers, in exercise of the powers conferred on them by Section 105(7) of and paragraph 5 of schedule 1 to, the National Health Service (Scotland) Act hereby gives to NHS Trusts, Boards, and Special Health Boards the following direction.
2. General Whitley Council provisions, Section 2, Statutory and Public Holidays, paragraph 20, “part time employees shall be entitled to statutory and public holidays which fall under the arrangements set out in the paragraphs above on a day when they would normally work” will be varied in accordance with paragraph 3 of this direction.
3. This Variation Order is effective retrospectively from 1 July 2000 and will remain in force in line with the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000. This will entitle all part-time workers, regardless of pattern of work, to have a pro rata entitlement to public holidays compared to full time workers.

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A member of the staff of the Scottish  
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