

1. Introduction

This leaflet sets out guidelines on the entitlements of part-time nurses/midwives who are employed in the public health service. It is based on the provisions of the Protection of Employees (Part-Time Work) Act, 2001 and the Agreement on Flexible Working in the Health Service. It is not a legal interpretation of the Act or Agreement.

2. What are my rights under the Act

The Protection of Employees (Part-Time Work) Act, 2001 provides that an employer cannot treat a part-time employee less favourably than a comparable full-time employee in respect of her/his conditions of employment including, pay, holidays, sick pay, pensions, access to jobs, promotion, training, etc.

However, the Act does allow for an employer to treat a part-time employee less favourably than a full-time employee if the reason for the different treatment is for the purpose of achieving a legitimate objective of the employer and is not based solely on the part-time status of the employee.

3. Who is Covered by the Act

Any part-time employee working under a contract of employment or employed through an agency is covered by the Act. It should be noted, however, that a part-time agency worker can only compare her/himself to a full-time agency worker. Similarly, a part-time employee can only compare her/himself to a full-time employee.

A part-time employee is an employee who works less than the normal full-time hours for the grade.

4. When can a part-time employee be compared to a full-time employee?

A part-time employee can be compared to a full-time employee in the following circumstances:

- Where both the part-time employee and the full-time employee are employed by the same or associated employer, or
- Where both are employed in the same industry or sector of employment; and

- Where the part-time employee performs work which is equal or greater in value to the work performed by the 'comparable' full-time employee.

5. Am I entitled to the same pay and conditions as my full-time colleagues?

Yes, you are entitled to exactly the same pay and conditions of employment, but on a pro-rata basis, i.e. pay and entitlements such as annual leave, sick leave etc., are based on the number of hours worked.

6. What Holidays am I entitled to?

Please refer to the INMO's explanatory leaflet on Annual Leave Entitlements.

Your holiday entitlement is calculated on a pro rata basis to the full-time nurse/midwife, taking into consideration service and grade. For nurses/midwives working in the public health service, the following two methods of calculation may be used:

Method 1 - Percentage of Hours Worked

- Where the annual leave entitlement of the full-time nurse/midwife is 24 days: 9.2% of hours worked
- Where the annual leave entitlement of the full-time nurse/midwife is 25 days: 9.6%
- Where the annual leave entitlement of the full-time nurse/midwife is 26 days: 9.96%
- Where the annual leave entitlement of the full-time nurse/midwife is 27 days: 10.4%
- Where the annual leave entitlement of the full-time nurse/midwife is 28 days: 10.7%

Formula: Number of hours worked per week multiplied by the number of weeks in the year (52.18), this will give you the number of hours worked in the year. Then multiply the number of hours worked in the year by the percentage of hours worked entitlement above.

Example: A staff nurse/midwife who has worked a total of 700 hours in a year with 5-10 years service is entitled to 67.2 hours annual leave, i.e. $700 \times 9.6\% = 67.2$. This method is particularly appropriate for nurses/midwives who work irregular hours.

Method 2 - Annual Leave Formula

Formula: Number of annual leave days for full time grade divided by 37.5 and multiplied by the number of hours worked each week.

Example: A staff nurse/midwife working 25 hours each week with more than 10 years service is entitled to 18 days, i.e. $27 \div 37.5 \times 25 = 18$ (7.5 hour days)

If you do not work 7.5 hour days you should convert your annual leave into hours (see section 6 of INMO Annual Leave Leaflet). You can then either:

Deduct annual leave days of varying lengths from the total number of annual leave hours.

Example: If your annual leave amounts to 72 hours and you are due to take two days' annual leave, one of which is a 12-hour shift and the other an 8-hour shift, simply deduct 20 hours from 72 hours. You will then be left with a total of 50 hours annual leave.

Divide the total annual leave hours by the number of hours you work each day to get the total number of annual leave days to which you are entitled.

Example: If your annual leave amounts to 72 hours and you work 6-hour days, the number of 6-hour annual leave days to which you are entitled is calculated as follows: $72 \div 6 = 12$ (6-hour days).

7. What is included when calculating Annual Leave Entitlements

All hours worked including, time spent on maternity leave, parental leave, force majeure leave, adoptive leave, the first 13 weeks of carer's leave, and annual leave and public holidays taken during the calculation period qualifies for paid holiday time.

With effect from the 14th April 2010 part-time employees who work additional hours in excess of their contracted hours will be entitled to accrue annual leave in respect of the additional hours worked up to a maximum of the annual leave entitlement for the whole-time equivalent (WTE) grade (HSE Circular 1/2012).

Job-sharing, and part-time nurses/midwives should keep a record of all hours worked to ensure that they are granted the correct annual leave allowance.

8. What are my public holiday entitlements?

In order to qualify for public holiday entitlement you must have worked at least 40 hours in the five weeks ending on the day before the public holiday. (Please refer to the INMO's Public Holiday Entitlements leaflet.)

Nurses/midwives employed in the public health service who work a '5 over 7' roster receive additional annual leave in lieu of their liability to work on public holidays, i.e. 10 days in the case of full-time nurses/midwives and proportionately less in respect of job-sharers and part-timers. In addition, they also receive double pay in respect of any public holiday on which they are required to work.

Job-sharing nurses/midwives who work Monday to Friday and who are not scheduled to work on the day on which the public holiday falls are entitled to one tenth of their normal fortnightly pay for the public holiday.

Part-time nurses/midwives who work Monday to Friday and who do not normally work on the day on which the public holidays falls are entitled to one-fifth of their normal weekly pay for the public holiday.

To calculate your public holiday entitlement divide your weekly hours by 5. For example, if you work 24 hours each week you are entitled to 4.8 hours for each of the 10 public holidays. In addition, if you are employed in the public health service and you are required to work on a public holiday you will receive double time for all hours worked on the public holiday.

9. What about Superannuation?

With effect from 1st February 2002, it is compulsory for all nurses/midwives employed in the public health service (including temporary and part-time) who are employed under a potentially renewable contract of employment, to join the superannuation scheme. Nurses/midwives on fixed-term contracts are also required to join the scheme. Nurses/midwives who had in excess of one year's service on 1st February 2001 were given the option of joining the scheme.

10. Disputes and Appeals

Any complaints relating to the provisions of the Act can be made to the Adjudication Service of the WRC with the right of appeal to the Labour Court. If you believe your employer has failed to provide you with an entitlement to which you are due under the Act, you should contact your Industrial Relations Officer/Executive.

11. Further Information

Should you have any queries in relation to your entitlements as a part-time nurse/midwife, please contact the Information Office.

This leaflet is not a legal interpretation of the Protection of Employees (Part-Time Work) Act, 2001 and the Agreement on Flexible Working in the Health Service. It aims to provide guidelines on part-time nurses entitlements based on the provisions of the Act and arrangements which apply in the Public Health Service (errors and omissions accepted).

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Part-Time Nurses/Midwives Entitlements

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for Nurses and Midwives in Ireland
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