

Misconduct/Disciplinary Inquiries Payment of Shift Penalties/Other Work Related Allowances

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Publication date 25-Jan-2005

Functional Sub group Personnel/Workforce - Conditions of employment

Summary Outlines arrangements for payment of shift penalties to employees who are transferred to other duties while a disciplinary inquiry is being held, but who are found to to be guilty of the matter which led to the inquiry.

Author Branch Workplace Relations

Branch contact 9391 9357

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations, Affiliated Health Organisations - Declared, Divisions of General Practice, NSW Ambulance Service, Ministry of Health, Public Health Units, Public Hospitals

Distributed to Public Health System, Divisions of General Practice, Health Associations Unions, Health Professional Associations and Related Organisations, NSW Ambulance Service, Ministry of Health, Public Health Units, Public Hospitals

Review date 01-Jan-2011

Policy Manual Not applicable

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Status Rescinded

Rescinded By PD2014_042

Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

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Author Branch Workplace Relations and Management Branch

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Divisions of General Practice, NSW Ambulance Service, NSW Dept of Health, Public Health Units, Public Hospitals

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CIRCULAR

File No A19312/1
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Contact Ms Lee Edgar (02) 391 9803

PAYMENT OF SHIFT PENALTIES AND OTHER WORK RELATED ALLOWANCES WHILST SUBJECT TO MISCONDUCT/DISCIPLINARY INQUIRIES

The Public Employment Office has issued Circular 96-35 advising of the new arrangements for the payment of shift penalties to employees who are transferred to other duties while a disciplinary inquiry is being held, but who are found not to be guilty of the matter which led to the inquiry.

The new arrangements have been developed in consultation with a number of public sector organisations, Labor Council and public sector unions. The new arrangements are as follows:

Where an employee, who is engaged as a shift worker on a permanent or regular basis or has worked shift work regularly for the previous 3 months, is subject to a disciplinary inquiry or misconduct investigation and is:

1. allocated alternative duties pending the outcome of the disciplinary inquiry or the misconduct investigation;
2. placed on duties which result in a loss of shift penalties and other allowances; and
3. subsequently advised that there is no finding of guilt against them;

then the employee is to be reimbursed for the loss of shift penalties and other allowances that relate to work or conditions. The reimbursement is to be based on the average of any shift penalties and other work related allowances for the preceding 6 months or if the period of shift work is less than 6 months, the average for the period worked.

The new arrangements are to be implemented from the date of this circular.

The following examples are provided to assist in clarifying these directions:

- Example 1. Where an employee who is not normally rostered to work shift work is requested to and agrees to work shift work for a specified period (ie. less than 3 months), is subject to a disciplinary inquiry and is returned to normal hours, and following the disciplinary inquiry is found not guilty, then no reimbursement is to be made for the loss of earnings for shift penalties and other work related allowances.
- Example 2. Where an employee who is not normally rostered to work shift work is requested to and agrees to work shift work for a specified period (ie. more than 3 months), is subject to a disciplinary inquiry and is returned to normal hours, and following the disciplinary inquiry is found not guilty, then reimbursement should be made for the loss of earnings for shift penalties and other work related allowances based on the average for preceding 6 months or lesser period where applicable.
- Example 3. Where an employee who is employed on a permanent basis to regularly work shift work but has worked shift work for less than 3 months, is subject to a disciplinary inquiry, and is returned to normal hours, and following a disciplinary inquiry is found not guilty, then the employee should be reimbursed for the loss of shift penalties and other allowances based on the average for the period employed.

John Wyn Owen
Director-General

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