

BOO – Airgeadas agus Pearsanra Riaracháin
An Roinn Oideachais & Scileanna
Cor na Madadh
Baile Átha Luain
Co. na Íarmhí
N37 X659



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Circular Letter 0032/2016

To the Chief Executive of each Education and Training Board

**For the Attention of Teachers, Special Needs Assistants, Clerical,
Administrative, Maintenance and other Staff
who are paid on
Payrolls operated by Education and Training Boards**

Policy and Procedures for dealing with the recovery of Overpayments of Salary

The purpose of this Circular is to set out the administrative arrangements for the recovery of overpayments made to individuals paid on payrolls operated by Education and Training Boards (ETBs).

This policy will be implemented by ETBs with immediate effect.

This circular supersedes any previous circular on policy and procedures for dealing with overpayment of salary/allowances.

This Circular can be accessed on the Department's website under www.education.ie Home - Circulars and Forms.

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Definitions

For the purposes of this circular the following terms shall have the meanings assigned to them here unless the context indicates otherwise:

ETB – means an Education and Training Board

The Department – means The Department of Education and Skills.

Employer – means an Education and Training Board.

Salary – includes all salary, allowances and temporary rehabilitation remuneration paid by the Payroll of an ETB.

Payroll Section – is the unit within an ETB which is responsible for the payroll operated by the ETB.

1 Introduction

- 1.1 Overpayments of salary occur for a variety of reasons. The following are typical reasons that overpayments can occur:
- a. Late notification from the school of the end-date of a contract / acting-up allowance
 - b. Incorrect start date of contract
 - c. Payment of salary on an incorrect salary scale or on the incorrect point of a salary scale
 - d. Payment of an incorrect allowance
 - e. Delays / errors in recording absences
 - f. Late notification of commencement of unpaid leave (maternity/parental/unpaid sick leave etc.)
 - g. Late notification of date of retirement
 - h. Appointment of retired teachers to temporary / permanent posts
 - i. Failure to repay monies due in respect of the Cycle to Work or Travel Pass schemes.
 - j. Incorrect payment of Illness Benefit
 - k. Miscalculation of sick pay / TRR
- 1.2 The Payment of Wages Act, 1991 (Section 5(5)), sets out the rights of employers and employees in relation to overpayment of wages, allowances or expenses from his/her employee(s) salary.

2 Principles

- 2.1 It is not intended that the operation of these procedures will cause undue hardship to any staff member or individual.
- 2.2 Individuals must immediately report to their ETB instances where they are aware that they may have been overpaid by a payroll section. Relevant contact details are provided at paragraph 8.
- 2.3 Where an individual resigns and there is no opportunity to recoup the full amount of the overpayment from a deferred entitlement for example, incremental credit or redundancy the outstanding balances remain due for payment.
- 2.4 All overpayments should be repaid as soon as possible.
- 2.5 ETBs should arrange for any outstanding balances of an overpayment on retirement to be recovered in a single lump sum from the retirement gratuity.
- 2.6 Where an individual is due a payment in addition to salary, for example: redundancy, before the overpayment is fully recovered, the payment will be held as part or full payment of the overpayment. Arrears of salary resulting from a delay in setting up an individual on payroll are excluded from this paragraph.
- 2.7 Where an overpayment cannot be recovered by deductions from salary or other arrangements, then appropriate legal proceedings may be initiated by the ETB for the recovery of the overpayment. This may result in any consequential costs of the proceedings being borne by the individual.
- 2.8 Where an individual takes unplanned unpaid leave, unpaid leave at short notice, or exceeds the permitted limits for sick leave, the full amount of the overpayment will be recouped in full at the earliest available opportunity. Where the amount exceeds the gross salary, it will be offset against all subsequent pay dates until the amount is fully recouped.

- 2.9 Where an overpayment recoupment plan is agreed or in train before the commencement of this Circular, those arrangements will not be affected.

3 Calculation of overpayment

3.1 Overpayment in a current tax year

When an overpayment is discovered in the tax year in which it occurred and it is recouped from salary during the same tax year, the gross amount of the overpayment will be deducted from **gross** salary. Using this method, any pension or statutory deductions owing to the individual will be generated through the payroll.

When an overpayment is discovered in the tax year in which it occurred and the individual is no longer in receipt of salary from the ETB, the amount of the overpayment recouped will be the gross less the pension contributions and PRD paid on that amount. The ETB will send statements of the overpayment recouped to the staff member on request. The individual may then apply to the Revenue Commissioners and the Department of Social Protection for a refund of statutory deductions paid on the amount of the overpayment recouped. This statement can only issue when the overpayment has been fully recouped.

3.2 Overpayment in the previous four tax years

If the overpayment is recovered during the first, second, third or fourth tax year following the tax year in which the overpayment occurred (out-of-year recoupment), the amount of the overpayment recouped is the gross amount of the overpayment less the pension contributions and PRD paid on that amount.

If the overpayment is recouped by deduction from salary, it is deducted from **net** salary.

The ETB will provide individuals with a statement confirming the amount of the overpayment that has been recouped on request. The individual may then apply to the Revenue Commissioners and the Department of Social Protection for a refund of statutory deductions paid on the amount of the overpayment recouped. This statement will only be provided when the overpayment has been fully recouped.

3.3 Overpayment dating back in excess of four tax years

If the overpayment is recovered during the fifth tax year or later, following the tax year in which the overpayment occurred, the amount of the overpayment recouped is the net value of the overpayment. The net value of the overpayment is calculated by adjusting the gross overpayment by the value of any overpaid pension or statutory deductions. This will be done by reference to the P60 figures for the year in question.

If the overpayment is recouped by deduction from salary, it is deducted from **net** salary.

In this case it will not be necessary to apply to the Revenue Commissioners or the Department of Social Protection for a refund of statutory deductions.

4 Procedure for recoupment of an overpayment

- 4.1 On discovery of an overpayment, the ETB will notify the individual by letter as quickly as possible of:
- a) the existence of the overpayment,
 - b) the amount,
 - c) the reason the overpayment occurred,
 - d) the period covered by the overpayment,
 - e) the repayment options, and
 - f) the proposed recovery plan.
- 4.2 The individual will be required to select their chosen repayment option and advise the ETB within a specified timeframe.
- 4.3 Where the individual does not notify the ETB of their chosen repayment option or does not appeal the proposed recovery plan within 21 calendar days (3 weeks) of the date of the letter, it will be taken to mean that the consent of the individual is given to apply the proposed recovery plan. The letter will be the notification for the purposes of the Payment of Wages Act that deductions will commence from the next available pay date.

5 Repayment options where the individual is in receipt of salary.

5.1 Repayment by deduction from Salary

Overpayments will be recovered at the rate of 5% of gross salary and will be deducted from the individual's salary.

Individuals may increase the percentage deduction in order to repay the overpayment over a shorter period.

Individuals whose employment is due to cease before the overpayment is fully repaid should arrange to increase the percentage deduction in order to discharge the overpayment in full in advance of departure.

There may be exceptional instances where the individual cannot make the repayment of 5% of gross salary. They may apply to have their case reviewed by the relevant ETB. The reason for the review should be outlined in an email to the contact details at paragraph 8 and marked for the attention of the Head of Human Resources of the relevant ETB.

Where a person is paid salary on more than one payroll operated by a payroll section, the overpayment deduction of 5% will be deducted from each payroll until the overpayment is recovered in full.

5.2 Repayment by Lump Sum

An individual may wish to repay the overpayment in a single lump sum. This can be done by arranging an Electronic Funds Transfer (EFT) directly into the ETB's bank account. Details of the bank account will be made available as part of the agreed arrangement.

5.3 Repayment in part by lump sum and the balance by deduction from salary
It is open to the individual to repay part of the overpayment by lump sum as set out in paragraph 5.2. The balance will be then repaid by deductions at the rate of 5% of gross from salary.

6 Repayment options where the individual is no longer in receipt of salary.

6.1 Repayment by Lump Sum

When an individual is no longer in receipt of salary, s/he may repay the overpayment in a single lump sum as set out in paragraph 5.2.

6.2 Repayment in part by lump sum and the balance by Instalments

If it is not possible to repay the full amount of the overpayment in a single lump sum payment, the individual may repay part of the overpayment by lump sum as set out in paragraph 5.2 and the balance by instalments over an agreed period of time.

Repayment by instalments can be done by arranging an Electronic Funds Transfer (EFT) by Standing Order directly into the ETB's bank account at regular intervals. The minimum value of the installment must be €100. Details of the bank account will be made available as part of the agreed arrangement.

6.3 Repayment by Instalments

If neither of the options at 6.1 or 6.2 are possible, the individual may repay the full amount of the overpayment by instalments over an agreed period of time as set out in paragraph 6.2.

7 Repayment options in the case of death in service

7.1 The ETB should be informed (contact details at paragraph 8) at the earliest opportunity of the death of an individual who is serving and is paid on any payroll operated by an ETB.

7.2 If an overpayment has occurred, the amount of overpayment recouped in these cases will always be the net amount of the overpayment.

7.3 The ETB will issue notification of the occurrence of the overpayment to the executor/administrator of the estate or next of kin of the deceased person.

7.4 Where an individual dies in service and a death gratuity is payable to the estate of the deceased under the term of the relevant superannuation schemes, any outstanding overpayment will be recouped in a single lump sum from the death gratuity.

7.5 The repayment options available to next of kin of deceased individuals are:

- a. Repayment by lump sum
- b. Repayment in part by lump sum and the balance by instalments over an agreed period
- c. Repayment by instalments over an agreed period
- d. Repayment from Spouses Pension if payable
- e. Repayment from the estate of the deceased

8 Further Information

Enquiries from employees regarding this Circular should be addressed to the Human Resources (HR) division of the relevant ETB.

Queries from HR or payroll sections may be emailed to financialetb@education.gov.ie.