

CONTRACT INTERPRETATION MANUAL

Article 29 ON CALL, CALL BACK, AND CALL IN

Interpretation Guidelines

This provision includes discussion on the following:

1. The distinction between a call-back and a call-in;
2. The definition of a scheduled day off for the purpose of call-back;
3. When the on-call premium must be paid;
4. Limitations on placing the employees on-call;
5. Use of pagers;
6. Compensation for on-call, call-back and call-in situations;
7. Functions of employees on call-back;
8. Payment of travel allowances;
9. Insufficient off-duty hours; and
10. The utilization of casuals for on-call.

Article 29.01 – Definitions

When an employee is placed on a schedule for on-call (e.g. as in OR), this must be mutually agreed to and, as such, the on-call schedule forms part of the master rotation. The on-call shifts may, or may not, be attached to a worked shift. This process allows for a clear understanding (e.g. if a vacant shift has on-call attached, the shift and the on-call portion must be called out together) (Article 25.02 and Shift Rotation Manual).

1. On-call – employee is entitled to be paid the on-call premium:
 - (a) Where an employee is off-duty and required to be available for work, the employee should also be getting paid the on-call premium.
2. Call-Back – this refers to the period of time where the employee is scheduled off-duty and is either:
 - (a) On-call (being paid the on-call premium) and called-back to work by the Employer. The employee does not have the right to refuse the Employer's request (e.g. on-call to deal with emergency surgeries in the operating room), and is paid a minimum of 2 hours at the appropriate rate of OT; or
 - (b) Telephone call back (being paid the on-call premium). Responding to a call from the Employer or from a Patient/client and does not attend the office or client home is paid the rate of pay as provided in Article 29.04 (A) (ii) or for 30 minutes for each call or the duration of the call if the call exceeds 30 minutes.
3. Call In - Employees who are not scheduled to be on-call but are responding to an Employer's call for unscheduled work. OT may not apply for casuals and RPT employees. Employees are entitled to 2 hours pay if they don't start work and 4 hours pay if they do start work. A RFT employee only reports to work in accordance with their regular work schedule or under the call-back provisions of the PCA or if working an OT shift. Minimum hours as above apply.

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Article 29.02 - On-Call Application

The on-call premium does not get paid for the period of time the employee is receiving the call-back pay.

Article 29.03 - On-Call

Premium

1. An employee who is required to be on-call is paid an on-call premium to compensate the employee for having to be available for work, not for doing work.
2. Payment for actually doing work is governed by Article 29.04.
3. Where an employee is on-call, they are required to report to work when called by the Employer. Employees may also be required to carry out work duties by telephone (Article 29).

On Call Limited

1. Employers are required to make “every effort” to avoid placing an employee on-call the evening before days off.
2. Employers are required to explore all reasonable alternatives before placing an employee on-call before days off.
3. The Employer has the responsibility to demonstrate that “every effort” was made.

On-Call Communications

1. Employers are responsible for all the expenses associated with on-call communications where the employee is required to use them while on-call.

Article 29.04 - Call-Back

It is the decision of the Employer to place the employee on-call. The potential of a call-back benefit occurs only where an employee has already been required by the Employer to be on-call.

Delta Hospital and BCNU, April 28, 1999 (Munroe) deals with the entitlement of casuals and RPT employees to call-back benefits.

Three arbitrations have confirmed that employees who are on-call and required to respond to work related telephone calls meet the definition of call-back. They are:

1. Tumbler Ridge and BCNU, November 21, 1994 (Taylor). No 15 minute minimum for the telephone call to be eligible for call-back pay;
2. Queens Park Hospital and BCNU, July 2, 1997 (Larson). 15 minute minimum for the telephone call to be eligible for call-back pay; and
3. HEABC (Kootenay Lake Regional Hospital) and NBA, July 26, 2002 (Hall). No 15 minute minimum for the telephone call to be eligible for call-back pay.

The first two contradicted each other, therefore the Kootenay Lake arbitration award (which was upheld on appeal) provides the final word confirming that telephone calls do not need to be greater than 15 minutes before the employee is entitled to receive the two hour minimum for call-back pay.

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These arbitrations have been superseded by new language in Article 29.04 (A) (ii):

1. RPT employees and casuals who are on-call and return to work also come within the definition of call-back (i.e. it is not a call-in as per 29.01(C)). In Delta Hospital and BCNU, April 28, 1999 (Munroe), the Arbitrator considered the clear language of the PCA and the evolution of the language and concluded that casuals and RPT employees were eligible for the call-back benefit under the PCA when they are called- back to work on a scheduled day off as defined by Article 29.04.
2. Call-back premiums are not restricted to the actual hours worked. In HEABC (Delta Hospital) and BCNU, June 6, 1997 (Munroe), the Employer argued that call-back premiums should be based on the actual hours worked. This argument was rejected by the Arbitrator who stated that the employee is entitled to double time for the second call-out period.
3. Employees do not have to work a minimum of 15 minutes before they are entitled to call-back pay (HEABC (Delta Hospital) and BCNU, June 6, 1997 (Munroe)).

Not on-call and called back

A RPT employee who worked 0830-1230 was called-back after they had left work later on the same day for a shift from 1430-1930. The Employer argued it was a call-in and therefore they were not entitled to OT, the Arbitrator disagreed saying this fell within the definition of a call-back and awarded OT (Powell River Hospital and BCNU, March 31, 1999(Gordon) (Expedited Arbitration)).

Compensation

1. On-call employees being paid the on-call premium receive a minimum of 2 hours pay at the appropriate OT rates for each separate call-back (Article 27.05).
2. Call-backs as defined above also include telephone calls from clients or the Employer regarding work (Article 29.04).
3. Under this provision, employees who are placed on-call are entitled to OT based on the hours they are paid. To determine the appropriate overtime rate for each call-back (Article 27.05), the OT premium is not based on the hours actually worked (HEABC (Delta Hospital) and BCNU, June 6, 1997 (Munroe)).
4. The definition of scheduled day off is expanded in Article 29 for the purpose of call-back. A scheduled day off is defined as “any day on which an employee is not scheduled to work”. This means a casual or RPT employee who is placed on-call on a day they are not scheduled to work is entitled to be paid OT at the 2x rate for 2 hours for each separate call-back (Delta Hospital and BCNU, April 28, 1999 (Munroe) (General Application Dispute)).

Examples

1. An employee works a regular 7.5 hour shift at straight time and then is placed on-call.
 - (a) The employee is called-back and works 30 minutes and is paid at the 1.5x the regular rate for the day for two hours; then
 - (b) Later the same day the employee is called-back again and works another 30 minutes and is paid at the 2x the regular rate for two hours.
 - (c) The employee is entitled to a minimum of 2 hours pay for each separate call-back.
 - (d) Article 27.05 (A) (1) applies to the first 2 hours and Article 27.05(B) (1) applies to the second 2 hours because the employee has already worked the normal daily full-shift hours.
2. An employee works a 4 hour shift at straight time and then is placed on-call.

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- (a) The employee is called back and works 30 minutes and is paid 1.5x for 2 hours; then
 - (b) Later the same day the employee is called back again and is paid 1.5x for 2 hours.
 - (c) The employee is paid OT because they are placed on-call.
 - (d) However, the employee only receives the 1.5x rate for both call-backs because it was not a scheduled day off and the employee worked less than the normal daily full-shift hours to start with so the second call-back did not exceed the threshold as set out in Articles 27.05 (i.e. 4 hours + 2 hours pay for first call-back = 6 hours).
3. An employee (casual/RPT/RFT) is on a scheduled day off as defined by Article 29.04 and is placed on-call.
 - (a) The employee is called back and works 30 minutes and is paid 2x for 2 hours.
 - (b) The employee receives the 2x OT rate set out in Article 27.05 for 2 hours for each separate call-back.
 4. An employee (casual/RPT/RFT) is placed on-call on a paid holiday listed in Article 39.
 - (a) The employee is called back and works 30 minutes and is paid 3x for two hours on a regular stat holiday and 3.75x for 2 hours on a super stat holiday.
 - (b) The employee receives the OT rate set out in Articles 27.05 and 29.04 times the stat holiday rates set out in Article 39.03 for 2 hours for each separate call-back.

Article 29.04 (A) (ii)

New in 2019 employees designated to be on call for a telephone call about a patient related concern or by a client and don't have to attend at the office or home shall be paid 1.5 times the normal rate of pay for 30 minutes for each call regardless of duration or for the duration of the call if it exceeds 30 minutes.

The Union's position is that each call is paid for 30 minutes even if you get more than 1 call in a 30 minute period.

Article 29.05 (A) - Functions of Employees on Call-Back

This applies to all employees who are placed on call.

1. Employees on call-back are only required to perform the functions related to the situation that gave rise to the call-back; they cannot be required by the Employer to perform unrelated, non-emergency functions. For example, an operating room employee cannot be required to provide workload relief on the surgical floor.
2. If the functions related to the call-back have been completed and the Employer determines the emergency to be over, the employee who was called-back must be sent home. The Employer cannot keep the employee at work to do other non-emergency functions simply because the Employer will be paying the employee a minimum of 2 hours at the applicable OT rate.
3. The employee is generally placed on-call for a specific purpose (e.g. to deal with after hour emergency surgeries). The limitation on the functions to be performed in a call-back is to ensure that the employee is available to fulfill the primary purpose for being placed on-call and that their off-duty time is not being unnecessarily abused.
4. The employee must perform the functions as directed by the Employer and grieve later if they believe that the functions were not related to the original reason for the call-back or didn't meet the definition of an emergency.

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Article 29.05 (B) - Employee Option: Time Off or Cash for Call-Back

The employee has the choice of taking the hours worked in call-back situations as time off or pay.

The employee needs to advise the Employer of their choice and then the time is accumulated to be taken at a mutually agreeable time.

New in 2019 the OT banked is governed by the joint interpretation included in Article 27.04.

Article 29.06 - Call-Back Travel Allowance

An employee called-back to work, whether or not they've been placed on-call, should remember to claim for the appropriate travel allowance (Article 29.01).

Article 29.07 - Call-In

This provision does not apply to RFT employees, or RPT and casual employees who are placed on-call.

The purpose of this provision is to provide some compensation to RFT, RPT and casual employees who report to work and are sent home either before the employee has had a chance to start working or shortly after the employee has begun the shift.

RFT, RPT and casual employees reporting to work as a result of a call-in do not get the call-back travel allowance.

New in 2019 a RFT employee called in by the employer shall be paid a minimum of 2 hours of the applicable OT rate for all work under 2 hours, and pay at the OT rate for all hours worked in excess of 2 hours.

Article 29.08 - Insufficient Off-Duty Hours

The employee who works OT following their shift or is called-back to work is required to have at least 8 consecutive hours off after the completion of the call back and before starting the next regularly scheduled shift.

To get the 8 consecutive hours off, the employee can start their next scheduled shift later than originally scheduled but finishes at their usual time and gets paid as though they have worked the whole shift.

The employee needs to advise the Employer when they are not reporting to work at their scheduled time.

Article 29.08 does not apply to employees who have less than 8 consecutive hours off because they have requested a particular shift arrangement (Article 25.09).

Examples

1. Employee only has 7 consecutive hours off in the 24 hours between day 1 and day 2. Therefore, the employee does not have to report to work on day 2 until 1300 hours works until 2000 hours as usual but gets paid for the full shift.

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- (a) Regular shift (day 1) -----1200 hours to 2000 hours
 - (b) Call-back-----0300 hours to 0500 hours
 - (c) Next Shift (day 2) -----1200 hours to 2000 hours
2. Because the employee had 8 consecutive hours between 2000 hours and 0600 hours, they must report at 1200 hours on day 2.
- (a) Regular shift (day 1) -----1200 hours to 2000 hours
 - (b) Call-back-----0600 hours to 0700 hours
 - (c) Next Shift (day 2) -----1200 hours to 2000 hours
3. Because the employee did not have 8 consecutive hours off-duty between 1200 hours on day 1 and 1200 hours on day 2, they do not have to report to work until 1300 on day 2 and then gets paid for the whole shift.
- (a) Regular shift (day 1) -----1200 hours to 2400 hours
 - (b) Call-back-----2400 hours to 0500 hours
 - (c) Next Shift (day 2) -----1200 hours to 2400 hours

Arbitration Awards

1. Delta Hospital and BCNU, June 6, 1997 (Munroe). Arbitrator rejected the Employer's claim that call-back premiums should be based on actual hours worked and also rejected the Employer's position that a minimum of 15 minutes had to be worked before call-back premiums are paid.

General Application Dispute

1. Delta Hospital and BCNU, April 28, 1999 (Munroe). Confirmed the Union's position that the different definition of a "scheduled day off" in Article 29.04 (C) meant that call-back premiums apply to RPT and casual employees who are placed on-call in the same way as to RFT employees.

Industry Wide Application Dispute

1. HEABC (Kootenay Lake Regional Hospital) and NBA, July 26, 2002 (Hall). The final decision confirming the Union's position that telephone calls, received by employees who are covered by the Section 1 provisions and placed on-call by the Employer, do not have to last a minimum of 15 minutes before the nurse can be eligible for the 2 hour minimum call-back premium.

Expedited Arbitration

1. Powell River Hospital and BCNU, March 31, 1999(Gordon). A RPT employee who worked 0830-1230 was called-back after they had left work, later on the same day, for a shift from 1430-1930. The Employer argued it was a call-in and therefore they were not entitled to overtime, the arbitrator disagreed saying this fell within the definition of a call-back and awarded OT.

Additional Resources

BCLRB Decisions

1. HEABC (Kootenay Lake Regional Hospital) and NBA, January 14, 2004 (Mullin, Fleming, McCreary). The Labour Relations Board dismissed HEABC's application for reconsideration of B161/2003 which was an application for review of the arbitration award of Arbitrator John Hall. The panel stated that

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“such an application will not be entertained where the essence of the appeal is a continuing disenchantment with an interpretative conclusion made by the arbitrator”.

Footnotes

Article	29
Sub-Article	29.01, 29.02, 29.03, 29.04, 29.05, 29.06, 29.07, 29.08
Last Update	31-03-21
Related Articles	11, 25, 27, 39, 42, 57, Memorandum Extended Work Day