

**Circular Title:** Arrangements for Paid Sick Leave

**File Reference:** DPE056/046/2014

I am directed by the Minister for Public Expenditure and Reform to say that the following will apply in relation to arrangements for paid sick leave:

**Circular Number:** 05/2018

**Purpose:** To set out the administrative arrangements for paid sick leave

**Circular Applications:** To all civil servants

**Relevant Law/Circulars:** Civil Service Regulation Acts 1956 – 2005  
Public Service Management (Recruitment & Appointments) Act 2004  
Public Service Management (Recruitment & Appointments) (Amendment) Act 2013  
Public Service Management (Sick Leave) Regulations 2014, SI 124 of 2014  
Public Service Management (Sick Leave) (Amendment) Regulations 2015  
SI 384 of 2015  
Organisation of Working Time Act 1997  
Payment of Wages Act 1991  
Current Circular on the Recovery of Salary, Allowances, and Expenses  
Overpayments made to Staff Members/Former Staff  
Members/Pensioners

**Effective From:** 31 March 2018

This Circular revokes Circular 12/2015. Circulars revoked by Circular 6/2014 remain revoked and are listed at Appendix 1. This Circular does not affect the rights and obligations of civil servants under an Occupational Illness or Injury Scheme. The Circulars dealing with occupational illness or injury remain in place.

**THIS CIRCULAR MUST BE READ IN CONJUNCTION WITH:**

**PUBLIC SERVICE MANAGEMENT (SICK LEAVE) REGULATIONS 2014, SI 124 OF 2014**

**PUBLIC SERVICE MANAGEMENT (SICK LEAVE) (AMENDMENT) REGULATIONS 2015, SI 384 OF 2015**

## **Part 1: Purpose and Principles**

### **1.1 Purpose**

The purpose of this Circular is to set out the arrangements for sick leave in the Civil Service. The Sick Leave Scheme was revised following consultation with the Public Service Unions. This consultation was facilitated by the Labour Relations Commission and matters of dispute were referred to the Labour Court for a binding recommendation. The implementation of the recommendation resulted in the Public Service Management (Recruitment and Appointments) (Amendment) Act 2013 which provides that the Minister for Public Expenditure and Reform can make regulations for a Public Service Sick Leave Scheme. These Regulations are contained in SI 124 of 2014 and SI 384 of 2015. The Regulations set out the terms for the granting of paid sick leave. The main provisions are set out in Appendix 2.

### **1.2 Principles of the Policy**

The Civil Service is committed to providing efficient and well-managed services. In order to achieve this it is necessary to strike a satisfactory balance between the delivery of the business needs of the employer – in this case the consistent delivery of high quality services to the public – and the need to allow civil servants to address their health and safety needs during periods of illness.

All civil servants have a responsibility to the organisation of which they are part, to their colleagues and to themselves to attend work and provide effective service. It is not the intention of the Civil Service that civil servants who are ill should be at work.

The Civil Service will support officers who, from time to time, experience ill-health. Civil servants will receive support during times of illness through access to the Chief Medical Officer (CMO) and Civil Service Employee Assistance Service (CSEAS).

Where necessary, the Civil Service will provide opportunities for officers to participate in workplace rehabilitation to facilitate a timely and safe return to work as early return to work programmes benefit both civil servants and the Civil Service.

## **Part 2: Management of Sick Leave - Roles and Responsibilities**

### **2.1 Management of Sick Leave**

The effective management of sick leave provides a working environment that supports staff welfare, maximises and motivates attendance and builds morale within the organisation. Information on the roles and/or responsibilities of the following are set out in more detail below:

- Civil Servants' Responsibilities;
- Line Managers' Responsibilities;
- HR Managers'/Units' Responsibilities;
- Role of HR Shared Services (HRSS);
- Role of the Office of the Chief Medical Officer;
- Role of the Civil Service Employee Assistance Service.

### **2.2 Civil Servants' Responsibilities**

Civil servants are obliged to provide regular and effective service and have a responsibility for managing their own sick leave and in particular adherence to the Sick Leave Regulations. They must understand that they need to:

- Be familiar and comply with the Sick Leave Regulations and policy;
- Maintain regular contact with the employing organisation during periods of sick absence;
- Take all reasonable measures, where possible, to manage their own health and well-being with a view to returning to full health;
- Co-operate fully with all referrals to the CMO and/or CSEAS;
- Co-operate fully with all rehabilitative measures to facilitate an early return to work.

### **2.3 Line Managers' Responsibilities**

The commitment of managers to a consistent policy on sick leave has been found to be a critical factor in creating a culture of good attendance. A manager should:

- Be clear on the subject of attendance expectations;
- Assist in maintaining a positive atmosphere in the workplace;
- Maintain regular contact with individuals on sick leave;
- Liaise with the HR Unit, Employee Assistance Officer (EAO) or Disability Liaison Officer (DLO), as necessary, in identifying progress towards recovery and assisting in reintegration into the workplace;
- Carry out a Return to Work Interview after a period of sick leave;
- Monitor and measure attendance patterns;
- Identify and address any shortfalls in attendance patterns as they arise;
- Conduct a Sick Leave Review Meeting with a civil servant who has an attendance pattern which is causing concern (e.g. frequent absences, absences regularly occurring on a Monday or Friday etc.);
- Ensure all the relevant paperwork/HRSS processes are completed in a timely manner.

## 2.4 HR Managers'/Units' Responsibilities

Organisations continue to have an employment relationship with civil servants on sick leave. HR Units have a responsibility to maintain an effective management policy. HR Units' responsibilities include:

- Making appropriate referrals to the Chief Medical Officer (CMO) or Civil Service Employee Assistance Service (CSEAS);
- Reporting on sick leave;
- Analysing sick leave reports on a regular basis;
- Providing sick leave pattern analysis/statistical reports to Senior Management, Heads of Business Units and Line Managers on a quarterly basis;
- Providing a civil servant's sick leave record and/or sick leave pattern analysis to the civil servant if requested or if required to highlight a pattern of concern;
- Reviewing and evaluating absenteeism rates annually to highlight key issues of concern that should be addressed. Such reviews may include a comparison with the previous year's rates and costs which should highlight trends and indicate, among other things, whether existing policies and procedures are effective;
- Reviewing the Organisation's referral practices to the Chief Medical Officer and the Civil Service Employee Assistance Service annually;
- Keeping appropriate records in relation to the Critical Illness Protocol.

## 2.5 Role of HRSS

HRSS will deliver the transactional elements of sick leave policy for those organisations within the HR Shared Services. The role will include:

- Distribution of information relating to sick leave policy through HRSS alerts;
- Provision of information to civil servants and managers about the transactional processes for sick leave;
- Administering the transactional elements of the sick leave process including:
  - Processing absence notifications and resumption to work forms;
  - Administration of Medical/Social Welfare Certificates;
  - Monitoring sick leave thresholds including pay affected;
  - Initiating CMO referrals.
- Providing statistical reports to organisations and the Department of Public Expenditure and Reform relating to:
  - Annual costs associated with sick leave both certified and self-certified;
  - Amount of days lost per FTE due to sick leave in a year;
  - Annual absenteeism rate.
- Keeping appropriate records related to the Critical Illness Protocol.

## **2.6 Role of the Chief Medical Officer**

The Office of the Chief Medical Officer (CMO) provides an occupational health service to civil servants. This service includes:

- Workplace rehabilitation of officers on sick leave;
- Assessment of medical fitness for work;
- Ill Health Retirement assessments;
- Statutory health surveillance and immunisations;
- Workplace health promotion and health education;
- Advice in relation to critical illness criteria.

## **2.7 Role of the Civil Service Employee Assistance Service**

The CSEAS augments and supports the work of HR Units and Line Managers in promoting officers' wellness and organisational effectiveness. It operates as a regionalised shared service under central management within the Department of Public Expenditure and Reform.

The CSEAS provides a wide range of free and confidential\* supports to civil servants, both staff and management, designed to assist officers in managing work and life difficulties which, if left unattended, could adversely affect work performance and/or attendance and quality of life.

In relation to the management of sick leave in the Civil Service, the CSEAS offers:

- Support and guidance to civil servants during and after periods of sick leave;
- Support to civil servants returning to work after a period of sick leave absence;
- Support to civil servants whose pattern of attendance (e.g. frequent absences) is a cause for concern and where welfare-related issues may be a contributing factor;
- Assistance to HR Units in their strategies to minimise sick leave absences.

\*Normal professional standards apply to confidentiality, which is between the service user and the CSEAS. Full details on the range of services available from the CSEAS and information on confidentiality and the exceptions to this, are available on the CSEAS website [www.cseas.per.gov.ie](http://www.cseas.per.gov.ie).

## **Part 3: Procedures relating to Sick Leave**

### **3.1 Reporting Absence**

When a civil servant is unable to attend work due to ill health the following procedures must be followed:

- Inform his/her Line Manager verbally within one hour of the normal starting time on the first day of absence that they are unable to attend work due to illness;
- Give the reason for absence and expected date for resumption of duty;
- If the absence is of three days or longer, provide a medical certificate signed and stating the medical practitioner's Medical Council registration number, stating fitness for work or otherwise;
- If the absence is of two days or less, complete a Return to Work Form and include a statement that the absence is due to illness;
- For those who are PRSI Class A contributors (employed post 6 April 1995), an MC1/2 Form must be completed for absences of 6 days or more and sick leave benefit paid by the Department of Employment Affairs and Social Protection must be mandated from the civil servant to the employing organisation.

### **3.2 Certification**

Medical certificates must, in all cases of continuous sick leave of three days or more, be provided to the Line Manager, HR Unit or HRSS as soon as possible but not later than one week after the absence commences. If a period of sick leave extends from Friday to Monday inclusive, a medical certificate must be provided. In general, medical certificates should not cover periods of longer than one week. However, certification for periods of up to one month may be accepted at the discretion of the HR Unit/Line Manager/HRSS. The medical certificate must be signed and must state the medical practitioner's Medical Council registration number. (This will also apply to MC1/2 forms where appropriate.) It must state fitness to work or otherwise and while it is not obligatory to state the nature of the illness, a failure to include this information may lead to difficulties if seeking to have the illness discounted. Where there is a difference of opinion between the CMO and the treating doctor, it is for management to decide whether or not to grant paid sick leave.

### **3.3 Excessive Self-Certified Sick Leave**

Where a civil servant exceeds 7 days' self-certified sick leave in a rolling 24 month period, the civil servant will be notified that his/her pay will be reduced accordingly and the appropriate sum recouped. Unpaid absences are not pensionable service.

### **3.4 Contact with Civil Servants while on Sick Leave**

Line Managers should maintain regular contact with civil servants while they are on sick leave. In order to facilitate this, the civil servant must provide their contact phone number and emergency contact information to their Line Manager, HR Unit or HRSS. The purpose of this is to ensure that an employing organisation maintains contact with a civil servant who is absent on sick leave. Such contact is particularly important to facilitate a successful return to work from sick leave.

### **3.5 Civil Servants who appear Ill in the Workplace**

No civil servant who appears to require medical attention should be allowed to remain on duty in the workplace. Where a civil servant's well-being becomes a concern, their Line Manager should make appropriate arrangements for that civil servant to either return home or receive appropriate medical attention. HR Units should provide support for Line Managers in such circumstances where required.

### **3.6 Referrals to the Chief Medical Officer for Short Term Sick Absences**

A civil servant can be referred by their Line Manager/HR Unit/HRSS to the CMO if a pattern of short term absence is a matter of concern. At least one sick leave review meeting must have been held to address the matter prior to any CMO referral. In such instances, the CMO should be provided with details of the outcome of prior sick leave review meetings with the civil servant about his/her attendance pattern. The CMO's role is to clarify if the treatment of any chronic medical condition is optimized and to see if any practicable work modification may help attendance.

### **3.7 Referrals to the Chief Medical Officer for Long Term Sick Absences**

The CMO has advised that the earlier a civil servant is referred to his office when s/he is on a long term sick absence, the better his/her chances are of returning to work. A civil servant is considered to be on a long term sick absence if the absence is of four weeks or greater. All cases, other than conditions that may be specified from time to time by the CMO, must be referred after a maximum of four weeks. CMO referral is for the purposes of workplace rehabilitation and is not a disciplinary measure. For Organisations within HRSS, generally the referral will be initiated by HRSS who will request the local HR Unit to complete the referral form. Absences attributed to work (e.g. work related stress) must be referred after two weeks. Management have the right to refer such absences immediately if it is considered appropriate. In such cases, the CMO will require full background information. Absences following on directly from Statutory Leave (e.g. maternity leave) must be referred immediately. The CMO may make an appointment to see the individual, seek a medical report or advise no intervention is necessary at that point.

### **3.8 Processes for Referral to the Chief Medical Officer**

When a decision is taken to refer a civil servant to the CMO, the civil servant must be advised in writing that the referral has been made. When so referred, civil servants are required to attend and engage with the CMO, unless they are medically unfit to travel. If a civil servant will not attend the CMO's Office or seeks to postpone their appointment without satisfactory explanation, HR Units may regard his/her absence as a disciplinary rather than a health matter. For Organisations within HRSS, if a civil servant postpones or cancels the appointment on three occasions, the matter will be referred to the local HR Unit to examine if it is a disciplinary matter. The continuation of the grant of paid sick leave is dependent on a civil servant agreeing to, attending and engaging with the CMO's Office when a referral is made.

In order to avoid giving rise to unnecessary expense, generally the CMO should decide whether a confidential doctor's report is required. When such a report is requested of a civil servant by the CMO it should be furnished within two weeks of receiving the request.

Where a civil servant has an appointment to attend the CMO but returns to work in the meantime, the Line Manager should inform the CMO. The CMO can then decide whether the appointment is still required. If, in the CMO's opinion, the appointment should proceed, the civil servant is required to attend and engage. If the civil servant will not attend the CMO's Office or seeks to postpone their appointment without satisfactory explanation, the HR Unit may regard their absence as a disciplinary rather than a health matter.

### **3.9 Referrals to the Civil Service Employee Assistance Service**

Civil servants absent on sick leave, or who have repeated short-term sick leave absences, may decide to avail of the CSEAS for support. HR Units, Line Managers and/or the Chief Medical Officer may:

- suggest to a civil servant that s/he may contact the CSEAS for support, or
- make a formal referral of a civil servant to the CSEAS.

HRSS may also suggest contact with the CSEAS to a civil servant absent on sick leave.

Communication with a civil servant should include information on the CSEAS and, where appropriate, inform the individual that a referral to the CSEAS has been made. Choosing to avail of support from the CSEAS rests with the civil servant. Engagement with the CSEAS may be helpful and is encouraged. It provides an opportunity for the staff member to discuss matters confidentially\* which might have a bearing on his/her circumstances. Contact details for the CSEAS are:

**Tel:** 0761 000030

**Email:** [cseas@per.gov.ie](mailto:cseas@per.gov.ie)

\*(Details on confidentiality, the exceptions to this and referral options are available on the CSEAS website [www.cseas.per.gov.ie](http://www.cseas.per.gov.ie)).



### **3.10 Procedures for Extended Sick Leave under the Critical Illness Protocol**

In recognition of the fact that as employers, the Civil Service needs to continue to provide support for their officers who may be incapacitated as a result of critical illness or serious physical injury, there is provision for extended sick leave which may be granted on an exceptional basis. The terms under which this extended sick leave may be granted are set out in the Critical Illness Protocol (CIP) which is attached (Appendix 3). The procedures for extended sick leave are:

- The civil servant will usually be absent from work due to illness;
- The civil servant completes an application form for the critical illness provisions and submits it to the HR Manager (via HRSS where appropriate);
- The HR Manager may also submit an application on behalf of the officer to the CMO where necessary;
- The HR Manager will refer the application to the CMO to determine if it meets the medical criteria set out in the Critical Illness Protocol;
- The HR Manager makes a decision following consideration of the medical advice and any other relevant circumstances of the case.

### **3.11 Appeals Process for Extended Sick Leave under the Critical Illness Protocol**

The civil servant will have been notified by the HR Manager of the decision on whether to award CIP or not and the reasons for the decision. Following this decision the civil servant can apply for an appeal setting out the grounds/basis for the appeal, indicating the reasons for the appeal and providing all information/documentation that may be relevant to the appeal. The process will then include:

- The appeal will generally be considered by the Manager of the person who made the original decision;
- If the Management Discretion Decision is appealed the Grievance Procedure is used;
- If the decision relating to medical advice is appealed it is referred to a Specialist Occupational Physician (similar process as for appeals of ill-health retirement). This will ordinarily be a file only review.

## **Part 4 Return to Work Procedures and Processes**

### **4.1 Return to Work Interview**

Civil servants should attend a Return to Work Interview with their Line Manager after every absence, but particularly after every instance of long term sick leave (i.e. in excess of 4 weeks). The purpose of the interview is to primarily facilitate the civil servant's transition back to work. Return to work needs to be carefully managed to ensure that the establishment of working practices and the recovery process are properly balanced. In managing sick leave, Organisations should ensure that the necessary appropriate measures such as reviewing work plans, modified working hours or arrangements, are undertaken in order to assist the civil servant in reintegrating to the workplace. (Appendix 4 provides further details).

### **4.2 Sick Leave Review Meetings**

Sick leave review meetings should be held in every case where a civil servant's absence rate or pattern is of concern, whether the absences are certified or uncertified. Line Managers should examine the civil servant's pattern of sick leave in determining when to conduct review meetings. Ordinarily, a sick leave review meeting should take place between the Line Manager and the civil servant where a civil servant accrues a minimum of 4 instances of short term absences in a rolling 1 year period. Organisations may consider the introduction of a follow-up meeting after every short term sick leave absence if the rate of sick leave in their organisation is of concern. (Appendix 5 provides further details).

### **4.3 Rehabilitation**

Officers should not return to work unless they are fit to do so. In cases of long term absences the CMO or treating doctor must confirm to the Line Manager that the civil servant is fit to resume duties.

A Line Manager/HR Manager may initiate discussion with the civil servant on the possibility of return. The dialogue should centre on whether there is joint advantage in considering any of the following:

- A phased/gradual return to work and the expected timelines for this (this will be over a short period of time);
- Alteration, restriction or limitation of certain tasks;
- Re-orientation, re-training, mentoring, supervision;
- Relocation to another job temporarily.

#### **4.4 Reasonable Accommodation**

Where an individual attributes poor attendance to a medical condition, consideration must be given as to whether that individual may have a disability as defined under Employment Equality legislation. HR Managers must consider their obligations under the Employment Equality Acts 1998 to 2015 to provide reasonable accommodation, to ensure that individuals with a disability can participate in and advance at work.

Examples of reasonable accommodation are as follows.

- Making adjustments to premises and/or working space where reasonably practicable;
- Allocating minor or subsidiary duties to another officer;
- Altering working hours/reduction in hours;
- Changing the location of the work;
- Providing a period of rehabilitation;
- Offering additional or extended training for the post;
- Acquiring relevant equipment or modifying existing equipment.

The above list is not exhaustive.

## **Part 5 Miscellaneous Provisions**

### **5.1 Sick Leave and Annual Leave**

A civil servant is not permitted to take annual leave in place of sick leave.

A civil servant may, however, be given access to sick leave if s/he falls ill whilst on annual leave. S/he may avail of sick leave for a specified period and have the same period of annual leave restored to him/her if s/he provides a medical certificate (i.e. civil servants cannot avail of self-certified sick leave during a period of annual leave). A civil servant may not opt to be paid for this annual leave rather than have it restored.

If a civil servant wishes to suspend a period of annual leave to take certified sick leave the usual rules apply, particularly those around timely notification to their Line Manager.

### **5.2 Sick Leave and Statutory Leave**

A civil servant may not have access to two different types of leave at the same time. When a civil servant is availing of statutory leave generally s/he have no access to sick leave. However depending on the nature of the statutory leave it may be possible to postpone or suspend the statutory leave (e.g. parental leave).

### **5.3 Sick Leave and Special Leave**

A civil servant may not have access to two different types of leave at the same time. When a civil servant is availing of special leave (e.g. career break) there is no access to sick leave.

### **5.4 Sick Leave and Work-Sharing**

The sick leave provisions for a civil servant participating in the Work-Sharing Scheme will be adjusted pro-rata to his/her agreed attendance pattern and are subject to the normal provisions governing the granting of sick leave.

### **5.5 Sick Leave-Related Overpayments**

If an overpayment arises as a result of sick leave, the overpayment should be recouped in accordance with the current Circular on the Recovery of Salary, Allowances, and Expenses Overpayments made to Staff Members/Former Staff Members/Pensioners/

### **5.6 Absences from Work Resulting in a Personal Injury Claim**

Where a civil servant is absent on sick leave due to an illness or injury which results in a personal injury claim against a third party, payment of sick pay is conditional upon the staff member:

- (i) including in their personal injury claim the amount of any sick pay paid or payable in respect of the absence; and
- (ii) reimbursing to the Organisation the amount of the sick pay paid or payable in the event of a successful claim.

### **5.7 Sick Leave during Probation**

During a probationary period, proper management of sick leave is critical. It is especially important that the focus on the prevention of abuse of the Sick Leave Scheme is emphasised at the Induction Phase. The sick leave policy should be explained to all new civil servants. Those on probation should be told the expected standards in terms of attendance, performance and behaviour/conduct, both in general and as they relate to establishment. They should be informed that the possible consequences of not attaining these standards include termination of their contract during the probationary period, or being reverted to the previous grade if on promotion.

### **5.8 Sick Leave Limits – Promotion/Higher Duties Allowance**

A civil servant's sick leave record will be taken into account in the event of their being considered for promotion or a higher duties allowance. When considering suitability for promotion/higher duties allowance, the key consideration is whether the civil servant will be capable, competent and available to provide regular and effective service at the higher grade. HR Managers should examine candidates' sick leave records over the previous four years to determine this. Sick leave of more than 56 days or 25 instances in the previous rolling four year period may result in ineligibility for promotion/higher duties allowance subject to the rules as set out below in paragraph 5.9. These limits are reduced pro rata where a civil servant has less than four years' service.

### **5.9 Discounting of Sick Leave**

HR Managers have discretion to discount periods of sick leave when assessing for promotion/higher duties allowance. Factors that may be taken into account include, but are not limited to:

- Has the individual's performance been satisfactory?
- What has the individual's pattern of sick leave been like throughout his or her career with the Department/ Office?
- Did the sick leave in the last year take place as one instance or as more than one instance?
- Is an instance of sick absence "out of the ordinary" for the individual in question?
- Has a life-long condition resulted in an unexpected "spike" in absence when, in the ordinary course, the individual's sick leave is within acceptable parameters?
- Was the sick leave due to a pregnancy related illness?
- Was the sick leave related to illness that has been stabilised successfully? Whilst a condition may be life-long, is the expectation that following successful treatment, the individual should be capable of regular and effective service?
- Does the pattern of sick leave suggest that there is no longer an issue (e.g. a large block of sick leave earlier in the 4 year period and no/ limited further instances)?

It is a matter for the HR Manager, on application by a civil servant, to decide whether sick leave absence can be discounted having regard to the provisions above, the compatibility of the sick leave record with the requirement for regular and effective service and any advice given by the Chief Medical Officer.

## **5.10 Sick Leave and the Organisation of Working Time Act 1997**

In accordance with Section 21 of the *Organisation of Working Time Act 1997*, a civil servant who is absent from work on certified sick leave immediately before and including a public holiday is entitled to benefit from that public holiday. Civil servants who are on certified sick leave immediately before and including a public holiday should be awarded a day in lieu.

There are a number of exceptions to this provision:

- (i) Civil servants who are absent due to an occupational injury for a period greater than 52 consecutive weeks are only entitled to an additional annual leave day for each public holiday arising in the first 52 consecutive weeks.
- (ii) Civil servants who are absent due to illness or injury (other than an occupational injury) for a period greater than 26 consecutive weeks are only entitled to an additional annual leave day for each public holiday arising in the first 26 consecutive weeks.
- (iii) Civil servants who are on an absence authorised by the employer, including a lay off but excluding (i) and (ii) above, of greater than 13 consecutive weeks are only entitled to an additional annual leave day for each public holiday arising in the first 13 consecutive weeks.
- (iv) Civil servants who are absent by reason of a strike are not entitled to an additional annual leave day in respect of a public holiday.

## **5.11 Pregnancy Related Provisions**

The Public Service Management (Sick Leave) Regulations 2014, SI 124 of 2014, as amended by the Public Service Management (Sick Leave) (Amendment) Regulations 2015, SI 384 of 2015, set out the provisions which relate to the interaction of pregnancy related illness with sick leave limits.

The Regulations provide for:

- A woman who is absent due to a pregnancy related illness will not receive less than the half rate of pay.
- An ongoing arrangement whereby pregnancy related sick leave taken in the previous 4 years will be credited back at half pay, subject to the overall sick leave limits.
- Transitional Arrangement: The discounting of all pregnancy related sick leave taken prior to the commencement of the Public Service Sick Leave Scheme for the purpose of determining access to paid sick leave under the current Scheme.

Louise Mc Girr  
Principal Officer

29 March 2018

## Appendix 1: Revocation of Circulars

Circular 12/2015 Arrangements for Paid Sick Leave is revoked by this Circular.

The following Circulars revoked by Circular 6/2014 remain revoked:

Circular 16/2012	Self-Certified Paid Sick Leave Arrangements
Circular 9/2010	Management of Sick Leave
Circular 15/2009	Sick Leave: Pregnancy-Related Sick Leave
Circular 9/2004	Sick Leave and the Organisation of Working Time Act 1997
Circular 33/1995	Sick Leave arrangements for unestablished and temporary staff
Conf. Circular 3/91	Clearance of candidates for promotion or establishment: sick absences and health considerations
Conf. Circular 4/91	Sick leave during or after pregnancy
Circular 12/1988	Civil Service Policy on AIDS
Circular 7/1978	Sick Leave
Circular 25/1978	Sick Leave [insofar as it relates to sick leave only]
Circular 23/1977	Fees for Certain Medical Examinations
Circular 43/1974	Sick Pay at Pension Rate
Circular 5/1971	Confirmation of Acting Appointments
Conf. Circular 6/64	Sick Absences of Officers on Probation
Circular 9/1957	Civil Service Regulation Act, 1956, Appointment of Medical Referees for purposes of Section 9
Circular 6/1957	Superannuation Act, 1956

## **Appendix 2: Main Provisions of the Regulations**

The Regulations governing Sick Leave in the Public Service are SI 124 of 2014. This summary is to assist Human Resource Managers in the Civil Service and should be used in conjunction with the Regulations.

### **Limits for Self - Certified Sick Leave**

- No more than 7 days of self-certified sick leave in a rolling 2 year period, counting backwards from the day before the latest date of absence;
- The duration of the absence on self-certified sick leave shall not be longer than 2 days in any instance.

### **Limits for Sick Leave**

- 92 days on full pay in a rolling 1 year period counting back from the day before the latest date of absence followed by 91 days on half pay subject to:
- A maximum of 183 days in a rolling 4 year period counting back from day before the latest date of absence.

### **Limits for Sick Leave Granted under the Critical Illness Protocol**

- 183 days on full pay in a rolling 1 year period counting back from the day before latest date of absence followed by 182 days on half pay subject to:
- A maximum of 365 days in a rolling 4 year period counting back from the day before the latest date of absence.

### **Temporary Rehabilitation Remuneration**

Regulation 6 of SI 124 of 2014 sets out the provisions for Temporary Rehabilitation Remuneration (TRR). The conditions to be met before temporary rehabilitation remuneration can be paid are:

- (a) the individual concerned must have the service required for an ill health retirement pension\*; and
- (b) there must be a reasonable prospect that the individual will be able to return to work and give regular and effective service.

Regulation 6 also provides that the rate of pay of temporary rehabilitation remuneration is the same as the rate of pension that the individual would be paid if they were to be ill-health retired.

The following limits apply for payment of TRR:

Ordinary sick leave: 547 days on TRR in a rolling 4 year period

Critical Illness Provisions: 365 days on TRR in a rolling 4 year period with a provision to extend for a further 2 years subject to 6 monthly reviews.

\* An ill health retirement pension is a pension that may be paid to an individual where he or she retires on health grounds.



### 1 INTRODUCTION

1.1 It is recognised that public service bodies, as employers, need to continue to provide support for their employees who may be incapacitated as a result of critical illness or serious physical injury. Therefore when an individual becomes incapacitated as a result of critical illness or serious physical injury, and has supporting medical evidence for an extended period of sick leave, the individual may, on an exceptional basis, be granted paid sick leave extended as follows:

- A maximum of 183 days on full pay in the previous rolling one-year period.
- Followed by a maximum of 182 days on half pay in the previous rolling one-year period.
- Subject to a maximum of 365 days paid sick leave in the previous rolling four-year period.

1.2 **The granting of exceptional extended paid sick leave is a decision of management** having considered the occupational medical advice.

1.3 These arrangements will exclude individuals whose illness relates to an occupational injury/illness and who have access to an Occupational Injury/Illness Scheme.

### 2 CRITERIA FOR AWARD OF EXTENDED PAID SICK LEAVE

2.1 In determining whether an individual may be granted access to exceptional extended paid sick leave the following criteria apply:

2.1.1 The employee should ordinarily be under the current or recent clinical care of a consultant either as an inpatient or outpatient. This excludes employees attending primarily for report preparation or medico legal purposes.

2.1.2 The case must be referred by the employer to its Occupational Health Service for medical advice.

2.1.3 The responsibility lies with the employee to furnish any treating doctor's medical reports requested within an appropriate time-frame to avail of the exceptional extended paid sick leave. A treating consultant's specialism must be appropriate to the critical illness for which the employee is making a claim.

2.1.4 The Occupational Physician, from the employer's Occupational Health Service, will advise whether, in their opinion, the following criteria are met:

- i. The employee is medically unfit to return to his or her current duties or (where practicable) modified duties in the same pay grade
- ii. The nature of this medical condition has **at least one** of the following characteristics:
  - (a) Acute life threatening physical illness
  - (b) Chronic progressive illness, with well-established potential to reduce life expectancy
  - (c) Major physical trauma ordinarily requiring corrective acute operative surgical treatment

(d) In-patient or day hospital care of ten consecutive days or greater<sup>1</sup>.

2.1.5 The Occupational Physician will consider the information provided by the treating doctor, and may confer with them with consent if they feel this would be helpful. It is not an absolute requirement that a definitive final diagnosis has been made. The Occupational Physician may accept a presumptive diagnosis on a case by case basis.

### **3 DECISION TO AWARD**

3.1 The decision on whether to award extended paid sick leave is a management decision. Whilst management must primarily consider the Occupational Medical advice, management should consider all the circumstances of the case.

3.2 Thus, although an employee may not meet the medical criteria outlined above, management may still make a decision to award in exceptional circumstances.

3.3 In exercising this discretion management must demonstrate the reasons why they are awarding an extended period of paid sick leave although the individual does not meet the requirements set out at 2.1.4 (ii) above.

In this regard management should establish the following:-

- That there are exceptional circumstances; and
- That those exceptional circumstances relate to the illness, injury or condition of the person; and
- That those exceptional circumstances warrant the granting of the extended paid sick leave.

3.4 When determining if there are exceptional circumstances which would warrant the award of CIP granted on the basis of managerial discretion, the Manager should consider the following three sources of information to inform the decision making process to award CIP.

- The Occupational Physicians Report
- Relevant Information from the Individual
- Relevant HR Information.

### **4 APPEAL OF THE MEDICAL DECISION**

4.1 The advice of the Occupational Physician may be appealed to either a single appeal Specialist Occupational Physician or a panel of Specialist Occupational Physicians. This can be decided on a sector by sector basis as to which is the most appropriate approach. This appeal will ordinarily be a file only review.

4.2 In the case of an appeal to a single Specialist Occupational Physician, an individual may arrange to meet with the Specialist Occupational Physician on the basis of an appropriate cost sharing arrangement to be determined within each sector.

4.3 The final decision on any appeal lies with the employer, having considered the medical advice.

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<sup>1</sup> In the case of pregnancy-related or assisted pregnancy-related illness, the requirement for hospitalisation of ten consecutive days will be reduced to two or more consecutive days of in-patient hospital / clinic care.

## **5 APPEAL OF THE MANAGEMENT DECISION**

5.1 The mechanism for appeal of the management decision will be decided on a sector by sector basis with access given to those appeal mechanisms which are already in place in each sector. For example, the management decision may be appealed using the Grievance Procedure in the Civil Service.

5.2 Should there be a delay<sup>2</sup> in the employer referring an employee to the Occupational Health Service of the organisation, or a delay<sup>3</sup> in being seen by this Occupational Health Service, there will be no financial loss to the employee if they are later awarded the exceptional extended paid sick leave. Where, in these circumstances, an employee moves on to half pay and it is later found that access to exceptional extended paid sick leave should have been granted, pay will be restored appropriately.

## **6 RETURN TO WORK**

6.1 There will be no financial loss to an employee in circumstances where the employee has fully engaged with the process around the management of sick leave and their own consultant has certified fitness to return to work, but the employee has not been able to return to work because there is a delay in the employer referring the employee to the Occupational Health Service of the organisation, or a delay in being seen by this Occupational Health Service. Pay will be restored appropriately.

## **7 TEMPORARY REHABILITATION REMUNERATION**

7.1 In advance of the termination of the payment of Temporary Rehabilitation Remuneration (TRR), following payment of paid sick leave and TRR for a period not exceeding two years, local management shall secure expert specialist occupational health advice on whether there is any reasonable prospect of the employee returning to work within a foreseeable timeframe. Where a reasonable prospect of return to work is confirmed by the Occupational Health Specialist the payment of TRR may be continued subject to review at six-monthly intervals for a further period not exceeding two years.

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<sup>2</sup> Where the delay is of a duration in excess of the period of time currently allowed for a referral to an Occupational Physician.

<sup>3</sup> Where the delay is of a duration in excess of the normal waiting time to be seen by an Occupational Physician.

## **Definitions**

### **Current or recent Clinical Care**

This means that the employee has received medical investigations and treatment ordinarily under the direct care / supervision of a hospital consultant. They may be either a hospital inpatient or outpatient. It excludes referrals that in the opinion of the Occupational Physician are primarily for report preparation purposes/medico-legal purposes.

### **Hospital Consultant**

This is a medical doctor who is on the relevant specialist register, and holds a HSE / Voluntary Hospital / NHS hospital consultant appointment or has admission rights to a recognised private hospital.

### **Occupational Physician**

This is a medical doctor registered with the Irish Medical Council who has a postgraduate qualification in Occupational Medicine / Occupational Health, or who is on a specialist training scheme in Occupational Medicine.

### **Specialist Occupational Physician**

This is a medical doctor registered with the Irish Medical Council in the specialist division of Occupational Medicine.

### **Limitation of Life Expectancy**

This refers to the condition and not the individual person. It must be well established in the peer reviewed medical literature that the medical condition results in a reduction of life expectancy.

## **APPENDIX 4: RETURN TO WORK MEETING**

### *When should a Return to Work Meeting be carried out?*

Civil servants should attend a Return to Work meeting with their Line Manager after every instance of certified sick absence, primarily to facilitate the civil servant's transition back to work.

### *Purpose of the Return to Work Meeting*

Return to Work Meetings shall be confidential and carried out in a positive and supportive manner between the civil servant and their Line Manager. In general, the purpose of the Return to Work Meeting is:

- To welcome the civil servant back to work;
- To establish whether any further practical steps may be taken to facilitate the civil servant's transition back to work;
- To update the civil servant on work developments, if appropriate;
- To identify any updates needed to the civil servant's Goal Setting form;
- If necessary, to draw the civil servant's attention to the services provided by the Civil Service Employee Assistance Service (CSEAS) and the Disability Liaison Officer.

### *Arranging a Return to Work Meeting*

The Return to Work Meeting should be held no later than the first week after the civil servant returns to work. It is not intended that these meetings be time-consuming or overly formal. The Line Manager will assess the level of formality required taking cognisance of the circumstances surrounding the long term Sick Leave absence on a case-by-case basis. The civil servant should be given notice of the meeting and the Line Manager should confirm with the civil servant that they are available to meet at the scheduled time. The Line Manager should choose a venue where the meeting can be conducted in private and without interruption.

### *Return to Work Meeting Report*

When the meeting has concluded, the Line Manager must forward written confirmation to their HR Unit/HRSS that a Return to Work Meeting has been held and include any other information that the civil servant or the Line Manager considers relevant. A copy of this report should be agreed as between the Line Manager and the civil servant and both should retain a copy.

### *Referral to the CMO*

Where a Line Manager or HR Unit is concerned about a civil servant's fitness to return to work the civil servant should be referred to the CMO.

## **APPENDIX 5: SICK LEAVE REVIEW MEETING**

### *When should a Sick Leave Review Meeting be carried out?*

Sick Leave Review Meetings should be held in every case where a civil servant's absence rate or pattern is of concern, whether the absences are certified or self-certified. Departments and Offices may also consider introducing a follow up/review meeting with each civil servant who has a short term sick leave absence if the absenteeism rate in their organisation is of concern.

In the case of repeated short term absences Line Managers should examine the civil servant's pattern of sick leave in order to determine whether a sick leave Review Meeting is warranted. For example, repeated short term absences may not primarily relate to medical issues. Problems in this area may relate more to issues around attendance at work than questions of health.

No two instances of repeated short term absences are the same and so Line Managers should exercise discretion in deciding when to intervene. Line Managers should be sufficiently aware of and familiar with a civil servant's absence record and pattern to make these determinations and decide whether or not to instigate a Sick Leave Review Meeting.

### *Purpose of the Sick Leave Review Meeting*

Sick Leave Review Meetings shall be confidential and carried out in a positive and supportive manner between the civil servant and their Line Manager. The discussion should focus on issues related to absence rather than medical matters. In general, the purpose of a Sick Leave Review Meeting is:

- (a) To advise the civil servant of their sick leave record for the past twelve months and the previous four years, as appropriate;
- (b) To identify and address any problem (work related or otherwise) that may have caused or contributed to the absences;
- (c) To discuss discernible patterns of absence, where appropriate;
- (d) To ensure that the civil servant is reminded of the provisions of this Circular;
- (e) To refer to the requirement for reliability in a civil servant and emphasise the necessity for teamwork and the impact that absences have on all civil servants;
- (f) To identify practical steps that might be taken to reduce absence levels in the future; and
- (g) To draw the civil servant's attention to the services provided by the Civil Service Employee Assistance Service (CSEAS) and the Disability Liaison Officer.

### *Arranging a Sick Leave Review Meeting*

The civil servant should be given notice of the meeting in writing. They should be advised of the purpose of the meeting and given a copy of their sick leave record. The Line Manager should confirm with the civil servant that they are available to meet at the scheduled time. The Line Manager should choose a venue where the meeting can be conducted in private and without interruption.

### *Line Manager Preparation for a Sick Leave Review Meeting*

It is important that a Line Manager is fully prepared before conducting a Sick Leave Review Meeting. The meeting should be conducted in a structured fashion. Line Managers should have developed a set of topics that they wish to cover in the meeting to help identify the underlying cause(s) of the absences. If the civil servant expresses concern about disclosing the reason for the absences, the Line Manager should seek assurances from the civil servant that the absences are not work-related. The civil servant should be reminded of the provisions of this Circular and the consequences associated with exceeding the Sick Leave limits.

### *Sick Leave Review Meeting Report*

When the meeting has concluded, the Line Manager must forward written confirmation to their HR Unit that a Sick Leave Review Meeting has been held and include any other information that the civil servant or the Line Manager considers relevant. A copy of this report should be agreed as between the Line Manager and the civil servant and both should retain a copy.

### *Referral to the CMO*

If, following a Sick Leave Review Meeting, the Line Manager is aware that the civil servant feels that their absences primarily relate to an underlying medical condition, the Line Manager can refer the civil servant to the Chief Medical Officer (CMO) for clarification/advice. In these cases, the CMO should be provided with records of all Sick Leave Review Meetings carried out with the civil servant. Repeated short term absence cases should not be referred to the CMO unless at least one Sick Leave Review Meeting has been held with the civil servant.