

**Reference No:** E104/1/77; **Date:** 03/07/78

**Circular 7/1978:- Sick Leave**

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I am directed by the Minister for the Public Service to say that he has decided to consolidate, and amend to some extent, existing confidential instructions relating to sick leave in the civil service with the exception of those contained in the following:

Confidential Circular/Circular Letter	Subject
6/64	Sick absences of officers on probation
5/71	Confirmation of acting appointments
3/75	Attendance at meetings abroad
13/75	Retention of civil servants beyond the age limit
3/76	Maternity leave

2. As regards Confidential Circulars 6/64 and 5/71, a new circular letter dealing with probation and acting appointments is being prepared. The instructions in this circular letter complement those in Circular 25/78 (Sick leave). Circular 25/78 is directed at individual officers but application of its terms involves various responsibilities and duties for Personnel Branches.

Medical examination of prospective appointees

3. Since whole-time unestablished employees are now eligible for death benefit irrespective of length of service, and for pension and lump sum after five years' pensionable service, special care should be taken to ensure that they are medically examined before recruitment. (This requirement applies also to those whom it is proposed to appoint on a continuous basis to positions in the industrial fringe.) Such prospective appointees should be referred to the Chief Medical Officer (CMO) for medical examination. If the situation concerned is outside the Dublin city area, the CMO should be asked to nominate - doctor to make the examination locally. Where the medical report shows that the health of the candidate does not fit him to give regular and efficient service the candidate should, of course, be rejected. The health clearance of officers appointed through the Civil Service Commission is arranged by the Commission.

Control of sick leave

4. Because of their responsibility for general staff management and of the work and cost implications of excessive sick leave, Departments have a clear duty to exercise control and eliminate abuse. It is accepted that most civil servants are conscientious about taking sick leave. Nevertheless, the leave patterns of individuals indicate that there is some element of abuse particularly of uncertified sick leave. In 1975, for example, sick leave in the civil service amounted to almost 650,000 days. It is obvious that there is scope for some reduction in a figure of that size, which indicates a very high average number of civil servants absent on sick leave on each day of the working year.

5. Departments are reminded of the preventive measures in relation to sick leave set out in paragraph 6 of Circular 34/76. Application of those measures and of the disciplinary procedures outlined in Circular 25/78 will help to control the pattern and amount of sick leave. It is important also to stress the significance of general Departmental attitudes, as emanating from management, in relation to sick leave.

If the attitude of management is one of indifference or resignation, attendance patterns will suffer and low standards will prevail, being transmitted from generation to generation of new appointees in the early years of their service. If, on the other hand, management is seen to be actively concerned about the level of sick leave and the application of the sick leave arrangements, it is likely that staff will develop a conscientious approach to sick leave and that there will be less abuse.

6. Abuse of the sick leave regulations should be regarded as a serious matter and staff should be left in no doubt about this. Heads of Departments are reminded that within the sick leave regulations, and apart from other disciplinary measures open to them, they may at their discretion withdraw or modify the uncertified sick leave concession, where that concession is being abused decide, even where a medical certificate is submitted, whether or not in respect of a particular absence sick leave is to be granted and if so whether or not it shall be with pay (assuming that is allowable otherwise under the regulations) or without pay arrange for a domiciliary visit where the pattern of an individual's sick leave or any circumstance in relation to it gives grounds for suspicion that the officer may be malingering.

Heads of Departments are also reminded of the importance of adhering to the terms of Circular 34/76, in relation to the clearance of candidates for promotion or establishment, both from the point of view of uniformity of practice and as a means of bringing home to individual officers that health and sick absences are taken seriously.

#### Sick leave allowances

7. Appendix B to Circular 25/78 sets out the sick pay conditions for temporary or unestablished whole-time civil servants. For this purpose a whole-time officer is taken as one who in the ordinary course serves for not less than 30 hours a week. The number of hours worked in more than one part-time capacity may be aggregated. The special conditions available in respect of absence due to tuberculosis are set out in Appendix A to this circular letter.

#### Medical certificates

8. If an officer submits a medical certificate which does not state the nature of the illness, he should be told of the relevant regulations and asked to get a certificate which complies with the regulations. If necessary, it should be pointed out that it is not possible to grant sick leave if the proper certificate is not submitted. If it emerges that an officer's doctor refuses to give a certificate showing the nature of the illness, the officer should be told to ask the doctor to send the certificate direct to the CMO. If the doctor refuses to do this the matter should be reported to the CMO.

9. Medical certificates submitted in support of applications for sick leave must be given by qualified and registered medical practitioners. Certificates from qualified dentists may, subject to the general discretion of the Head of the Department in relation to the grant of sick leave, also be accepted for periods not exceeding three days. However, in exceptional cases, e.g. extensive extractions, certificates from qualified dentists may be accepted for periods exceeding three days but not exceeding one week in any case. In all cases of doubt or difficulty regarding the terms of medical certificates the advice of the CMO should be obtained.

#### Confidentiality

10. The greatest possible care should be taken to safeguard the confidentiality of all information relating to the sick leave records of individual officers. This applies in particular to medical certificates. Departments should ensure that the procedures for the receipt and recording of medical certificates are such as to protect confidentiality. The importance of their acting responsibly in this respect should be impressed on supervising staff and on those working in Personnel Branches. If a medical certificate is sent direct to the CMO and he issues special instructions about safeguarding its confidentiality those instructions should be strictly observed.

## Tuberculosis

11. No officer should be allowed to resume duty after absence on account of tuberculosis without authority from the Head of his Department. This authority should be given only after consultation with the CMO. Any further directions given by the CMO at that stage, for instance in relation to future medical examinations and reports, should be followed.

## Domiciliary visits

12. Where there is reason to suspect that an officer on sick leave may be malingering and the Head of the Department decides that a domiciliary visit is desirable, it should first be considered whether the visit might more appropriately or effectively be made by someone from Personnel Branch or the officer's own section (or by the Welfare Officer, if there is one in the Department and if he can be involved without endangering his status).

13. Where a Department wishes to have a domiciliary visit made by a doctor, they should get in touch by telephone with the CMO's office. The CMO will, having regard to the area in which the officer to be visited lives, nominate a suitable doctor. The Department should then give that doctor particulars of the medical certificate(s) furnished, the nature of the illness stated in the certificate(s) and the name of the certifying doctor.

14. The fee payable for each such visit involving examination and report is inside a four mile radius from the doctor's consulting rooms:

- outside a four mile radius from the doctor's consulting rooms: £5.00
- outside a four mile radius from the doctor's consulting rooms: £6.25.

In addition to the £6.25, travelling expenses should be paid in accordance with the current regulations applicable to civil servants generally. Where a visit is made but the officer is absent from home or refuses examination, the full fee may be paid, unless another visit is required during the same period of sick absence, in which event three-quarters of the full fee should be paid for the first visit. Travelling expenses, where appropriate, would be payable in full in such a case.

15. Where malingering is discovered or where a doctor's visit proves fruitless owing to an officer's failure to observe instructions (of which he was aware) regarding notification of change of address, the officer should, unless there are any special circumstances, be required to recoup the fee paid to the doctor.

16. These paragraphs do not affect departmental arrangements about domiciliary visits applying in the Department of Posts and Telegraphs.

## Health of Staff

17. Whenever it comes to the notice of a Department that the conditions under which officers have to perform their duties may be injurious to their health the matter should be referred to the CMO for report.

## Sick Leave with pay at pension rate or without pay

18. Sick leave with pay at pension rate may be granted to an established officer where the sick leave with pay (including special sick pay on account of absence due to tuberculosis) allowable to him under the ordinary regulations has been exhausted and where his service would render him eligible for pension if he were retired on grounds of ill-health at the end of the period of paid sick leave. The grant of

sick leave with pay at pension rate is subject to the provisions of paragraph 8 of Circular 25/78 (Sick leave).

19. Where a Department has not got delegated authority to grant pension rate of pay during sick absence and it is desired that sick leave at pension rate should be granted, application should be made to this Department on form E.Gen.24. Once the appropriate pension rate of pay has been fixed, payments in respect of subsequent sick absences may, subject to medical certification and to the conditions indicated in the following paragraph, be made without reference to this Department:

(a) in the case of continuing sick leave, so long as the CMO is satisfied that there is a reasonable prospect of resumption of duty with ability to render efficient service, and

(b) in the case of casual sick absences, provided that the casual nature of the absence has been demonstrated by the officer's return to duty.

20. The arrangement set out in the second sentence of the preceding paragraph should be applied only in cases where it is clear that no revision is required in the rate of pay already authorised. Where a new rate of sick pay at pension rate is appropriate (e.g. because of a change in salary or the completion of additional pensionable service), or where any unusual circumstances exist, (e.g. in the event of any matter arising which might warrant a deduction for demerit), the case should be re-submitted to this Department. (See also Circular Letter 13/75 in relation to officers on retention beyond the normal retiring age.)

21. Sick leave without pay, subject to medical certification and to the agreement of the CMO, may be allowed, without reference to this Department, for such period or periods as may be necessary, to established officers who have exhausted the maximum period of sick leave with pay (including special sick pay on account of absence due to tuberculosis) allowable under the ordinary regulations, and who do not qualify for sick pay at pension rate. This arrangement may, at the discretion of the Head of the Department, be applied also in the case of unestablished officers who (a) have exhausted the allowable sick pay for which they are eligible under the ordinary regulations or (b) are not eligible for the grant of sick leave with pay. It will be understood, however, that, apart from other considerations, the grant of sick leave without pay to an unestablished officer will depend upon the need for retention of the post which the officer fills. In the Department of Posts and Telegraphs these arrangements regarding unestablished staff are subject to departmental rules.

22. The grant of sick leave with pay at pension rate or without pay to any officer, whether established or unestablished, is subject to the condition that there is a reasonable prospect of resumption of duty with ability to render efficient service.

Where it appears that an officer is unlikely to return to duty at the end of the appropriate period of sick leave, his case should be referred to the CMO for his advice as to whether further sick leave would be warranted. If the CMO certifies that there is not a reasonable prospect of resumption of duty with ability to render efficient service, appropriate steps should be taken with a view to retirement of the officer on grounds of ill-health. In the case of an officer who would be eligible for pension on retirement, payment of sick pay at pension rate may be made during the period (if any) from the date on which ordinary sick pay ceased until the date of retirement (or date of death, should the officer die before retirement).

23. Except as provided for in paragraph 24 regarding the reckoning of unpaid sick leave for purposes of increment in the case of temporary and unestablished officers, sick leave with pay at pension rate or without pay does not reckon for increment, annual leave or superannuation.

Unestablished staff - effect of sick leave on increments

24. Approved sick leave (paid or unpaid) taken by an unestablished or temporary officer may, at the discretion of the Head of the Department, count for incremental purposes up to a limit of three months in any period of twelve months. However, unpaid leave taken during the qualifying period for sick pay should not reckon for purposes of increments. These arrangements do not apply in the case of age-pay increments which should be granted as a matter of course.

Established staff - interpretation of sick leave regulations

25. Enquiries received by this Department from time to time indicate the desirability of guidelines on the application of the sick leave regulations to established officers. A note on the matter is given in Appendix B.

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Appendix A to Circular Letter 7/78

#### SPECIAL SICK PAY FOR STAFF MEDICALLY CERTIFIED TO BE SUFFERING FROM TUBERCULOSIS

1. Special sick pay at the rates provided in the following paragraph may be allowed to officers medically certified to be suffering from tuberculosis, in respect of continuous sick absence reckoned from the date of the first medical certificate in which tuberculosis is diagnosed. The special sick pay will be allowed only for the first continuous sick absence from tuberculosis and will be subject to the conditions below.

2 (i) The limits of the special sick pay are as follows:

(a) Established Officers -  
six months on full pay, followed by six months on three quarters pay, and  
by six months on half pay.

(b) Unestablished Officers eligible under their approved conditions of  
service-for ordinary sick pay and who have completed not less than three  
years'

paid service-three months on full pay, followed by six months on three  
quarters pay, less in each case deductions, where applicable, in respect of  
social welfare benefits.

(ii) The qualifying period of three years' paid service for unestablished officers indicated at (i)(b) above should ordinarily be continuous. Where, however, service has been broken, breaks of less than twelve months not due to circumstances within the control of the officer need not be regarded as interrupting the continuity.

(iii) The grant of special sick pay as above will be subject to the usual conditions governing the grant of sick pay and, in particular, to the condition that there is a reasonable prospect of recovery, as well as to the further condition that the officer concerned is certified to the satisfaction of the CMO to be undergoing any treatment, e.g. sanatorium treatment, recommended by his medical adviser.

3. All periods of continuing absence due to tuberculosis, beyond the total periods of eighteen months and nine months, respectively, stated above, will, subject again to the conditions of paragraph

2(iii) above, be dealt with as sick leave on pension rate of pay or as sick leave without pay, as may be appropriate.

4. The special sick pay will be allowed only once to any officer and will not be affected by, or reckon for purposes of calculation of, ordinary sick pay. When an officer to whom the special sick pay has been granted, in whole or in part, returns to duty and is subsequently absent (whether on account of tuberculosis or other illness) the ordinary sick pay terms will apply. The periods immediately before and after the period of special sick leave (which latter period is to be regarded as including for this purpose any period of absence on pay at pension rate or without pay granted under paragraph 3 above) will reckon as continuous for purposes of the calculation of the ordinary sick pay.

Treatment of established officers medically certified during probation as suffering from tuberculosis

5. If an established officer on probation is medically certified as suffering from tuberculosis the case should be dealt with as follows:-

(i) Particulars of the case, together with the medical certificate, should forthwith be submitted to the CMO and his advice sought.

(ii) If the CMO recommends the grant of sick leave, the officer may be allowed sick leave and probation may be extended then or subsequently for such period or periods as may be recommended by the CMO. Sick leave and/or extension of probation will be allowed only if the CMO is satisfied that there is a reasonable prospect of the disease being arrested. If it appears to the CMO at any time during sick leave and/or extension of probation that the prospects are unfavourable, a submission for the officer's discharge should be made to the relevant "appropriate authority" under the Civil Service Regulation Acts, 1956 and 1958. Subject to these conditions, probation may be extended from time to time as may be necessary, up to the expiration of three years from the date of the first medical certificate in which tuberculosis was diagnosed.

(iii) At the end of the three-year period indicated in sub-paragraph (ii) preceding, the case should be submitted to the CMO for special review including, if necessary, specialist consultation. Action on the following lines, as appropriate, should be taken as a result of this special review:

(a) If the CMO recommends confirmation of appointment this may be effected.

(b) If the CMO is unable to advise confirmation of appointment and considers that there is no reasonable prospect of the officer being in a position to render regular and efficient service a submission for the officer's discharge should be made to the "appropriate authority".

(c) If the CMO, while unable to advise confirmation of appointment, is of the opinion that there is a reasonable prospect of the officer being in a position to render regular and efficient service and, accordingly, that immediate discharge would not be justifiable, the officer's probation may be extended for a further period of two years, i.e., five years in all from the date of the first certificate diagnosing tuberculosis. Retention during this further period of probation will depend on the progress made by the officer. If at any time the CMO advises that the officer is not making satisfactory progress towards recovery and becomes of the opinion that there is no reasonable prospect of the officer rendering regular and efficient service, a submission for the officer's discharge should be made to the "appropriate authority".

(iv) At the end of the five year period indicated in sub-paragraph (iii)(c) preceding the case should be submitted to the CMO for a further special review including, if necessary, specialist consultation. Action on the following lines, as appropriate, should be taken as a result of this further special review:

(a) If the CMO recommends confirmation of appointment, this may be effected.

(b) If the CMO is unable to advise confirmation of appointment and considers that there is no reasonable prospect of the officer being in a position to render regular and efficient service a submission for the officer's discharge should be made to the "appropriate authority".

(c) If the CMO, while unable to advise confirmation of appointment, is of the opinion that there is a reasonable prospect of the officer being in a position to render regular and efficient service and, accordingly, that immediate discharge would not be justifiable, the officer's period of probation may be further extended. During this extension the case should be submitted to the CMO at at least half-yearly intervals for examination and report. If at any time the CMO advises that the officer is not making satisfactory progress towards recovery and forms the opinion that there is no reasonable prospect of the officer rendering regular and efficient service, a submission for the officer's discharge should be made to the "appropriate authority".

(v) If and when an officer, on extended probation in accordance with the provisions of subparagraph (iv)(c) preceding, by reason of intermittent service completes ten years' pensionable service the case should be submitted immediately to the CMO for final review including, if necessary, specialist consultation. Action on the following lines, as appropriate, should be taken as a result of this final review:

(a) If the CMO recommends confirmation of appointment, this may be effected.

(b) If the CMO does not recommend confirmation of appointment, the officer should be invited to apply for permission to retire on medical grounds and, if he fails to do so, a submission for his discharge should be made to the "appropriate authority".

(vi) Officers on probation who are retained in the Service after tuberculosis has been diagnosed may be granted the special sick pay terms laid down in this circular, subject to the conditions appropriate in each case.

6. Any special sick pay allowed in accordance with this Appendix should be shown separately in sick leave records and should, together with any information as regards extension of probationary period (where such applies), be specially indicated when particulars are being furnished (on Form E. Gen.6 or otherwise) as regards an officer transferred from one Department to another.

#### Appendix B to Circular Letter 7/78

#### NOTE ON THE APPLICATION OF THE SICK LEAVE REGULATIONS IN THE CASE OF ESTABLISHED OFFICERS

1. The sick leave allowable to established officers is set out in Appendix A to Circular 25/78 (Sick leave). Reference is made to a maximum of six months on full pay in one year and half-pay thereafter, subject to a maximum of twelve months' sick leave in any period of four years or less. Six months in this context is taken as 183 days and twelve months as 365 days. Subject to the conditions referred to in Circular 25/78 generally, the following guidelines apply to the operation of these arrangements.

2. In calculating the sick leave allowable to individual established officers both limits referred to must always be kept in mind, viz. not more than 365 days sick leave of any kind (with full pay, half pay, pension rate of pay or without pay) in 4 years not more than 183 days on full pay in a year.

In many cases, where officers have only occasional sick leave, application of these limits presents little difficulty. Where, however, an officer has had a good deal of sick absences, what is allowable to him by way of sick leave has to be carefully calculated and kept under review while he remains on sick leave.

3. When the officer goes on sick leave his sick absence record over the previous 4 calendar years should be checked to ascertain the aggregate total of sick absences of all kinds for that period. If the total is 365 days or more then he is not entitled to either full or half pay. If the total is less than 365 days then he is entitled to either full or half pay. Note should be taken of the number of days (if any) he has in hand in that respect.

4. If the officer is within the 365 day limit and may, therefore, be allowed sick leave with either full or half pay, it is necessary to decide which of these rates may apply. Here the "6 months (183 days) in a year" limit comes in. The officer's record over the previous year must be examined to see whether or not he had more than 183 days on sick leave with full pay in that period. If he had not, then full pay may issue; if he had, then only half pay may issue. Again note should be taken of the number of days (if any) with full pay which the officer has in hand. Irrespective of whether sick leave with full pay or half pay issues, the overall 4-year limit of 365 days must be borne in mind all the time. It must be remembered too that if an officer goes on a reduced rate of pay, on pension rate or on no pay during a period of sick absence he may not revert to a higher rate during that absence.

5. The officer's sick leave position should be checked as often as the circumstances of his case warrant. His files should be brought forward as necessary. The purposes of the two concurrent checks to be made should always be borne in mind. The purpose of the 4-year period check is to establish whether sick pay may issue; the 6-months-in-a-year check is to see whether pay, if allowable, is to be at full rate or half rate.

6. It should be noted that the operation of the regulations can mean in some situations that an officer goes from full pay to no pay (or pension rate) without having gone through sick leave with half pay.

7. The following hypothetical case may help to illustrate the foregoing:-

\* An officer goes on a continuous period of sick leave on 4 January 1978. It has to be decided whether he may be allowed sick pay for that day and if so at what rate.

\* His sick leave record is checked over the previous 4 years, from 5 January 1974 to 4 January 1978 inclusive, and is found to be as follows:-

1974	
January	
(9 to 28)	20 days
March	
(4 to 13)	10 days (without pay)
May	15 days
July	20 days
1975	
Feb-June	100 days
1976	
June	18 days (at pension rate)
1977	
January	
(6 to 17)	12 days
April	28 days
May	31 days
June	20 days

July	10 days
August	24 days
September	19 days

All the leave is with full pay except where otherwise shown. Some is uncertified.

\* In the 4-year period from 5 January 1974 to 4 January 1978 inclusive the officer had a total of 327 days. He may therefore be allowed 38 days (365-327) on either full or half pay. This would cover the period from 4 January to 10 February 1978, both dates included.

\* To decide on whether full or half pay may issue the year 5 January 1977 to 4 January 1978 inclusive is checked. It is found that in that period the officer has 144 days sick leave on full pay. He is sufficiently within the limit of 183 days with full pay in a year to enable full pay to issue for the 38 days referred to above, up to and including 10 February 1978. Leave on that basis may be allowed.

\* On 11 February 1978, when the officer has been on sick leave with full pay for 38 days, his file is brought forward and his position is looked at afresh, account being taken of the 38 days sick leave with pay which is just ended.

\* Taking the 4-year period from 12 February 1974 to 11 February 1978 inclusive it is seen that sick absences now total 345. He therefore has 20 days (365 less 345) in hand, at either full or half pay. Taking the year from 12 February 1977 to 11 February 1978 inclusive it emerges that he has had 170 days on full pay so he has only 13 days with full pay in hand. He therefore can be allowed 13 days on full pay up to and including 23 February, 1978.

\* On 24 February 1978 the case is looked at again. In the 4-year period from 25 February 1974 to 24 February 1978 inclusive the sick absences now total 358. The officer therefore has 7 days in hand on that front for full or half pay. In the year from 25 February 1977 to 24 February 1978 inclusive however he has had 183 days on full pay and as this is the limit he cannot be allowed full pay for 24 February 1978, or any subsequent days during this absence. He can, however, be allowed half pay for the 7 days in hand under the 4-year limit. This would bring him up to and including 2 March 1978.

\* On 3 March 1978 the position is further checked. In the 4-year period from 4 March 1974 to 3 March 1978 inclusive the total for all sick absences is 365. Neither full nor half pay can, therefore, issue in respect of 3 March 1978, or any subsequent day of this absence. The officer may however be considered for sick leave without pay or sick leave at pension rate. Once he is allowed sick leave on either of these bases he continues thus during the remainder of the absence.