

**Reference No:** E103/7/49 ; **Date:** 24/12/85

### **Circular 26/1985:- Annual Leave**

A Dhuine Uasail

I am directed by the Minister for the Public Service to say that he has decided for convenience of reference to issue the following comprehensive instructions about the grant of annual leave to non-industrial civil servants.

#### General

2. The Holidays (Employees) Act, 1973, applies to unestablished civil servants in subordinate positions. In the case of such staff the terms of the Act should, of course, be applied when they are more favourable than the provisions of this Circular. If doubt arises as to whether particular officers come within the scope of the Act, this Department should be consulted.
3. Staff should be encouraged to take their full allowance of annual leave. The grant of leave is, however, subject to the needs of the work. While an officer may normally expect to take the full leave allowance within the leave year there may be occasions when this will not be possible. Compensation will not be authorised for untaken leave (see however paragraphs 18 to 21 inclusive, Carry over of annual leave).
4. Permission to take annual leave must always be secured in advance, application being made on Form T Gen 13. Subject to the needs of the work, officers may, in practice, be allowed some choice of the period to be taken as leave but they have no entitlement to take leave whenever they wish.
5. A minimum annual leave allowance of 18 days, on the basis of a 5-day working week, applies to all full-time civil servants in general service grades and grades common to two or more Departments.
6. Unestablished and temporary officers in a general service grade or in a grade common to two or more Departments may be allowed the same annual leave as established officers in the same grade provided they can proceed to the same maximum pay as the established officers.
7. The present authorised leave allowances for general service grades and certain grades common to two or more Departments are set out in the appendix.

#### Reckoning of service for purpose of determining leave allowance

8. Where the annual leave allowance of a grade is stated to increase after a specified number of years service, the reference to service means service in the particular grade. A serving civil servant appointed or promoted (either departmentally or through open or confined competition) to such a grade may, however, be permitted to reckon as service for the purpose of qualifying for the increased allowance any period of service which attracted an allowance not less than the initial allowance applicable to the higher post, provided that such service was continuous and was given immediately before promotion:
9. Serving civil servants appointed or promoted to a new post may retain their existing annual leave allowance where this is greater than the allowance which would otherwise apply subject, however, to the maximum allowance applicable to the new post not being exceeded.

10. Where an officer, immediately prior to appointment to a post in the civil service, has previously served elsewhere in the public sector, such prior service may be reckoned for the purposes of determining the annual leave allowance in the civil service subject to the following conditions:

(i) such service should be capable of being aggregated with service in the civil service for the purposes of entitlement to civil service superannuation; and

(ii) the annual leave allowance in the civil service thus produced should not be greater than it would have been if the service given prior to entering the civil service had been given in an equivalent or analogous civil service grade.

Details of such cases should be submitted in writing to this Department.

#### Assignment to higher duties on an allowance basis

11. Where an officer is assigned, on an allowance basis, to act on higher duties, the period of the assignment to the higher duties may be reckoned for annual leave purposes as if the officer had been promoted to the higher grade.

#### Calculation of the amount of leave actually allowable

12. Leave may be regarded as accumulating at a rate proportionate to the annual allowance. The leave appropriate to a period of service of less than one year will be proportionate to the leave allowance over the entire year. Where the proportionate leave includes part of a day, the fraction (if it is not an exact one half) may be rounded up to the next half or whole day, as appropriate.

13. When staff become eligible for a higher allowance in the course of a leave year, they should be given in that year only a part of the increase due, proportionate to the part of the leave year remaining, any fraction being rounded up as in paragraph 12.

14. Special leave without pay and sick leave either at pension rate of pay or without pay do not reckon as service for the purpose of calculating the amount of leave allowable.

#### Anticipation of annual leave

15. Departments may, at their discretion, allow annual leave to be taken before it has actually accrued under the terms of paragraphs 12 to 14 provided that they are satisfied that the officer will continue to serve for a period sufficient to earn the number of days allowed or, if not, that there remains a balance of salary or wages due which is adequate to offset payment in respect of the days being allowed over and above those earned by service. If the officer resigns or is discharged before serving for the required period, salary or wages should be recovered in respect of the unaccrued leave taken - except as provided in paragraph 23.

16. Applications from officers for permission to take, in the current leave year, annual leave which they would not earn until the following leave year should in general be refused. An officer whose annual allowance for the current leave year has been exhausted and who is confronted with an unforeseen but compelling social obligation, e.g. the wedding of a close friend or relative, may however be allowed to anticipate up to two days of the allowance for the next leave year. This arrangement will apply only in the last three months of the leave year and will be subject to the condition that the Head of the Department has no reason to believe that sufficient service will not be given to cover the leave anticipated.

17. No annual leave should be allowed to temporary officers during the first three months of service (although leave may be regarded as accruing during that period) except that an officer who is first

appointed within three months of the end of a leave year may be permitted to take, within that leave year, such leave as has accrued.

#### Carry-over of leave

18. Departments should make every effort to make it possible for staff to take the leave allowable to them in each leave year.

19. Annual leave not taken within the leave year normally lapses. Where, however, it is not possible because of the work requirements to grant leave which would otherwise be allowable, a carry-over of the untaken leave may be permitted provided the following conditions are fulfilled:

(a) The officer must have applied in writing for the untaken leave in sufficient time before the end of the leave year to enable the leave (if it were granted) to be taken during the current year.

(b) The refusal to grant the untaken leave must be due solely to the requirements of official work.

20. Carry-over of leave may be allowed on the basis of a three year cycle as follows:

(i) At the end of the first year of the cycle or of any year in which an officer's leave allowance is the standard allowance, any untaken leave may be carried forward to the next leave year.

(ii) Departments should make a special effort to enable such carried forward leave to be taken in the second year of the cycle, in addition to the standard leave allowance for the year. If this is not possible the untaken balance of the total leave allowable may be carried forward to the third year.

(iii) At the end of the third year of the cycle, carry-over will be limited to the amount, if any, by which the leave actually taken during that year falls below the standard leave allowance for the grade. The cycle would then begin again i.e. the following year would then be the first year of the new cycle.

(iv) Where any leave is carried forward the officer's leave allowance in the year to which the carry-forward is made would be the total of the standard allowance and the days carried forward. In granting leave Departments need not make a distinction between standard leave and carried-forward leave.

21. Where, because of illness, an officer cannot take the annual leave allowable in a particular leave year, a carry-over of untaken leave may be permitted on the following basis:

(i) Subject to (iii) below, where an officer is absent from duty on certified sick leave at the conclusion of a leave year and is consequently unable to take the full amount of annual leave, the untaken leave (up to a maximum of 10 days) may be carried forward to the next leave year.

(ii) Annual leave carried forward in accordance with (i) above must be taken within 2 months of the officer's resumption of duty following sick leave.

(iii) The provisions of (i) and (ii) above will be subject to the limitations on the carry-over of leave specified in paragraph 20.

#### Annual leave in final years of service and recovery in respect of excess leave

22. When it is clear that an officer is in the final year of service (e.g. when retirement age will be reached during the year), care should be taken to allow, during the period between the beginning of the leave year, then current, and the date of termination of appointment, only the amount of annual leave

accruing in respect of that period. There is no objection to arranging for the final period of annual leave to end immediately before the date fixed for retirement.

23. If, when service ceases, an officer has been allowed leave in excess of the amount accrued to that date, the amount paid in respect of the excess leave should be recovered by deduction from the balance, if any, of salary or wages due. (If there is no balance of salary or wages due steps should be taken to have the recovery made from any pension award or gratuity payable). Recovery need not, however, be effected in the case of an officer (i) who dies, (ii) who is compulsorily retired on grounds of ill-health, or (iii) who, not being eligible for pension, retires on grounds of ill-health.

24. The amount to be recovered under paragraph 23 should be based on the number of excess scheduled working days involved.

25. No allowance can be made in respect of any accrued leave untaken at the date of resignation or discharge. Care should, accordingly, be taken to ensure that officers use their full accrued allowances in the final year of service.

#### Annual Leave and Sick Leave

26. Annual leave may not be taken instead of sick leave. Where permission is sought to take annual leave immediately following sick absence, Departments may, at their discretion, require that a certificate of fitness to return to duty be furnished before agreeing to the grant of such leave. Annual leave may, of course, be granted immediately following maternity leave.

27. If, during annual leave, an officer falls sick and produces, at the time, a medical certificate to that effect, the period of sickness may be recorded as sick leave and not as annual leave. Pay should be at the sick pay rate.

#### Payment of Wages in advance to staff on weekly or fortnightly pay

28. Advance payment of wages which fall due during a period of annual leave may be made, subject to the following conditions, to staff on weekly or fortnightly pay:

(a) The arrangements will be confined to continuous absences on annual leave of not less than one week for weekly-paid staff and not less than two weeks for fortnightly-paid staff.

(b) The advance will be paid on the normal pay day before commencement of leave.

(c) The advance will be limited to the pay ordinarily due on the pay day or pay days falling within the period of leave.

(d) An advance in respect of leave which has not been earned by service will not be made unless the Department is satisfied that the officer concerned will continue to serve for a period sufficient to earn the leave paid for, or that a balance of wages remains sufficient to offset payment for any unearned leave.

(e) The officer must give timely notice when requesting an advance, the notice required will be determined departmentally.

Alternatively, officers on leave can, of course, have salary falling due for payment during the leave period forwarded to them by post or paid into their bank accounts.

Previous Circulars

29. The following Circulars are superseded by the provisions of this Circular - 21/76, 39/77, 22/78, 53/79, 42/81 and 8/82. Circular 3/83 will, however, continue to apply.

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William P Smith  
Deputy Secretary

#### Appendix to Circular 26/85

#### Annual Leave Allowances

The amounts of annual leave shown are exclusive of public holidays and privilege holidays and relate to a five-day week.

I	General Service Grades	Days a year
	Secretary	31
	Deputy Secretary	31
	Assistant Secretary	31
	Principal	29
	Assistant Principal	29
	Administrative Officer	21, rising to 26 after 5 years' service
	Higher Executive Officer	26
	Executive Officer	19, rising to 21 after 5 years' service
	Staff Officer	21
	Clerical Officer	18, rising to 19 after 5 years' service
	Clerical Assistant	(i) after 10 years' service OR (ii) on reaching the maximum of the scale, provided not less than 5 years' service has been given in the grade.
	Paperkeeper	18
	Messenger	18
	Services Attendant	18
	Cleaner who works a minimum of 30 hours a week	18
	Cleaner who works less than 30 hours a week but not less than 18 hours a week	12
II	Certain Grades common to two or	Days a year

more Departments

Engineer, Grade I (Civil) 29  
Professional Accountant, Grade I

Engineer, Grade II (Civil) and 24, rising to 29 after 5 years' service  
Professional Accountant, Grade II

Engineer, Grade III (Civil) 21, rising to 26 after 5 years' service

Assistant Solicitor 21, rising to 26 after 5 years' service

Legal Staff Officer 24

Senior Legal Clerk 21

Legal Clerk 21

Senior Engineering Draughtsman 21

Examiner-in-Charge 21

Examiner of Maps 19

Architectural Assistant Grade II 18, rising to 19 after 5 years' service

Engineering Draughtsman "

Sightless Telephonist "

Law Clerk "

Mapping Draughtsman 18, rising to 19 after 10 years' service.

Key Punch Operator "

Laboratory Attendant "