

Reference No: E103/7/49; **Date:** 28/10/99

Circular 26/1999:- Annual Leave

1. I am directed by the Minister for Finance to say that it has been decided to consolidate, in this Circular, existing general instructions regarding annual leave, inclusive of legislative changes arising from the coming into force of the holidays provisions of the Organisation of Working Time Act 1997 (referred to from now on in this Circular as "the Act"), which apply to non-industrial civil servants. The relevant provisions of the Act came into force on 30 September 1997.

2. The revised arrangements are set out hereunder and Circular 26/85, and any subsequent circulars and letters about annual leave from this Department issued after Circular 26/85 are hereby rescinded.

3. Any queries from Departments/Offices* relating to this circular may be directed to Room 17, Department of Finance, 73-79 Lower Mount Street, Dublin 2, Telephone 676-7571 or VPN 8109 Extensions 5426, 5445 or 5448. Queries from individual officers should be directed to the Personnel Sections of their own Departments.

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JOE MCGOVERN

Assistant Secretary

To/All Departments

* Department should be read as Department/Office throughout this Circular

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Circular 26/99 - Revised Arrangements Governing Annual Leave

1. Organisation of Working Time Act, 1997.

In this Department's letter of 27 February 1998, information about the Act was circulated to Personnel Officers who were advised to familiarise themselves with its provisions. The main legislative changes arising relate to (i) the obligations on employers to ensure that the statutory minimum annual leave allowance is taken by employees within a specified timeframe, (ii) the manner in which the statutory minimum annual leave allowance is accrued, (which has particular relevance for job-sharing staff and other staff who work less than 39 weeks (around 1,365 hours (net) per annum) and (iii) the requirement to pay employees for untaken annual leave on cesser of employment.

Timing of annual leave and obligations on employers

2. Prior to the application of the holidays provisions of the Act to non-industrial civil servants, the granting of annual leave was subject to the exigencies of the work situation. While the employing Department will continue to decide when annual leave may be taken having regard to the demands of the work, this decision is now subject to the relevant provisions of the Act with which employers must comply.

3. Specifically, an employee must be granted the statutory minimum annual leave allowance (now 20 days) within the leave year in which it is accrued, or with the employee's consent, within six months of the start of the next leave year. Furthermore, apart from having regard to work requirements, the Act provides that Departments must take into account the need for the employee to reconcile work and any family responsibilities and the opportunities for rest and recreation available to the employee. There is also a requirement that Departments must ensure that Staff Side representatives or individual employees are consulted at least one month before annual leave is due to commence. (In practice, this provision is only intended to cover situations whereby a Department is specifically selecting the period in which

annual leave might be taken as opposed to simply approving the taking of annual leave during a period selected by the employee, following local agreement with supervisors and other colleagues).

4. After eight months work an employee is entitled, under the Act, to an unbroken period of two weeks annual leave, (which may include one or more public holidays). The Act also allows this particular provision to be varied by agreement between the employer and employees. Accordingly, where the employee indicates that s/he wishes to take two weeks annual leave after 8 months work in the leave year, s/he must be facilitated. However, in any case where the employee does not wish to take an unbroken period of two weeks annual leave after eight months work, Departments should, subject to (i) the exigencies of the work situation, and (ii) the timeframe for taking the statutory minimum annual leave allowance set out in paragraph 3, make every effort to facilitate the employee's alternative proposals for the taking of annual leave.

5. Permission to take annual leave must always be secured in advance, application being made on an appropriate annual leave form. The present authorised leave allowances for general service grades, and certain grades common to two or more Departments, are set out in Appendix 1. As a general rule the annual leave allowances of non-industrial civil service grades are determined by reference to an agreed salary banding system. The relevant arrangements are summarised at Appendix 2.

6. Minimum Annual Leave Allowance and Calculation of Leave Allowable.

The Act provides for a phased increase in the statutory minimum annual leave allowance (viz from 15 days prior to the commencement of the Act on 30 September 1997, to 20 days with effect from 1 April 1999). Details of minimum annual leave allowances, and how such allowances should be calculated, for the period 30 September 1997 to 31 March 1999 are set out in Appendix 3. The arrangements to apply with effect from the statutory leave year commencing on 1 April 1999 are as follows :-

(a) 4 working weeks in a leave year in which the employee works at least 1,365 hours (unless it is a leave year in which he or she changes employment), or where less than 1,365 hours are worked in the leave year, the more favourable of :-

(i) 1/3rd of a working week per calendar month that the employee works at least 117 hours, or

(ii) 8% of the hours an employee works in a leave year (but subject to a maximum of 4 working weeks).

In calculating the minimum annual leave entitlements of employees under the Act, employers are obliged to include overtime, time spent on maternity, adoptive or parental leave as well as holidays and public holidays taken during the calculation period.

7. In general, whole-time staff normally work 1,813 hours net annually (viz 34.75 hours net per week x 52.18 weeks). The accrual of annual leave for wholetime staff will continue to be calculated at a rate proportionate to the annual allowance for the relevant grade, subject to an officer being granted not less than 20 days annual leave where s/he works at least 1,365 hours (net) in the leave year. Where the officer works less than 1,365 hours in the leave year, leave will also be determined on a proportionate basis but subject to the leave so determined being not less than either 1/3rd of a working week for every month the officer works at least 117 hours or 8% of the hours actually worked by the officer in the leave 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. Leave may be calculated on a "proportionate basis" according to the following formula :-

$$\frac{A \times B}{365}$$

where A = the number of days actually worked by the officer during the leave year (including weekends, and public and privilege holidays falling during the working period(s), and any periods of maternity, parental or adoptive leave) and

B = the annual leave allowance for wholetime staff in the relevant grade.

8. Where the leave year in a particular Department does not commence on 1 April, the statutory minimum set out in paragraph 6 above may be applied earlier to coincide with the timing of such leave years. Thus for example, the arrangements to apply with effect from the 1999/2000 leave year, commencing on 1 April 1999, may, in Departments where the leave year is a calendar year, be applied with effect from 1 January 1999. (The timing of the arrangements applicable between 30 September 1997 and 31 March 1998 (both dates inclusive) and from 1 April 1998 to 31 March 1999, (both dates inclusive) which are set out in Appendix 3, would also fall to be adjusted in Departments where the leave year is a calendar year viz they may be applied between 30 September 1997 and 31 December 1997 and from 1 January 1998 to 31 December 1998, respectively).

9. Accrual of annual leave for job-sharers and other staff who work less than 1,365 hours annually. The following arrangements will apply with effect from the start of the 1999/2000 leave year:-

Job-sharing Staff

(i) officers serving in grades where the annual leave allowance for full-time staff is at least 21 days will continue to have a standard annual leave allowance equivalent to half the allowance applicable to officers serving in the relevant grade in a full-time capacity, (see also paragraph 9(b) below concerning overtime/extra attendance).

(ii) in the case of officers serving in grades where the annual leave allowance of full-time staff is 20 days the arrangements set out at paragraph 6 apply. This means that the standard annual leave allowance for such job-sharing staff, will be 10.5 days per annum (viz 8% of half of the hours normally worked in a leave year by wholetime staff in the relevant grades - the relevant calculation is 8% of 34.75 hours net per week x 52.18 weeks divided by 2 = 72.53 hours. 72.53 hours is equivalent to 10 days annual leave (6 hours 57 minutes per day = 69.5 hours) plus a balance of around three hours rounded up to a half day's annual leave). (see also paragraph 9(b) below concerning overtime/extra attendance).

Other Staff who work less than 1,365 hours in a leave year

(a) the annual leave allowance for other officers who work less than 1,365 hours in a particular leave year (eg because they have availed of special leave, which does not reckon for the purposes of accruing annual leave), will normally be calculated at a rate proportionate to the annual leave allowance for the relevant grade. However, if more favourable, the arrangements set out at paragraph 6 (i) or (ii) (viz 1/3rd of a working week for each month when an officer works at least 117 hours or 8% of hours actually worked) should be applied.

General

(b) Departments should note, in particular, that job-sharing and other officers who work less than 1,365 hours in a leave year will also be entitled to additional annual leave in respect of overtime working in accordance with paragraph 6. Such annual leave must be granted in addition to any overtime payments or time-off in lieu granted to an officer. Additional hours worked in excess of an officer's normal hours of work by non-overtime grades will also reckon for the purposes of accruing annual leave. The foregoing arrangements only apply until an officer reaches or exceeds the threshold of 1,365 hours work in a leave year. Where this threshold is attained, the officer concerned would, at that stage, be entitled to 20 days annual leave for the leave year. Departments should monitor the working hours of such staff and maintain appropriate records to ensure that any additional annual leave accrued through extra attendance is credited to the officers concerned. (Departments should also satisfy

themselves that staff, who have given extra attendance since 30 September 1997, have been granted the correct annual leave allowance by reference to the arrangements set out in Appendix 3).

10. Unestablished and temporary staff

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 that the amount of annual leave thus produced is not less than the annual leave allowance which the officer would be entitled to by reference to the methods for determining the minimum annual leave allowance set out in paragraph 6.

11. Carryover of annual leave

Where 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, subject to the following conditions :

(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, and

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

Furthermore, the timing of leave carried over is also dependent on whether or not it is part of an officer's statutory leave entitlement.

12. Carryover of an officer's statutory annual leave entitlement.

Carryover of the statutory minimum annual leave allowance is subject to the provisions of paragraph 3 (ie, an employee must be granted the statutory minimum annual leave allowance (now 20 days) within the leave year in which it is accrued, or with the employee's consent, within six months of the start of the next leave year). While Departments are obliged to allow staff to at least take their statutory minimum annual leave allowance within this timeframe, every effort should also be made to make it possible for staff to take all of the leave allowable to them in each leave year.

13. Carryover of annual leave in excess of the statutory minimum.

Where it is not possible to allow staff to avail of annual leave in excess of the statutory minimum, in the leave year in which it is accrued, such leave may be carried over in accordance with the arrangements in the following paragraphs which provide for a longer carryover timeframe than that applicable to the statutory minimum.

14. Carry-over of leave, in excess of the statutory minimum, 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 relevant 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 (a) any leave carried forward which is covered by paragraph 3 (governing the carryover of any part of the statutory minimum of

20 days) and (b) 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 under this paragraph will be limited to the difference (if any) between the statutory minimum annual leave allowance (20 days) and the officer's normal annual leave allowance which has been accrued during the third year of the cycle. This is entirely

separate from the arrangements in respect of the statutory minimum annual leave allowance (see paragraph 3). For example an officer with an annual leave allowance of 26 days who takes only the statutory minimum annual leave allowance of 20 days each year will, in the third (and final) year of the carryover cycle, have 38 days annual leave during that year. This is made up of 26 days accrued during the year plus 12 days carried forward from the previous two years. If the officer takes only the statutory minimum annual leave allowance of 20 days during the third year of the cycle, the 12 days carried over into the leave year from the previous leave years will be forfeited by the officer and his/her carryover of annual leave at the end of the year will be limited to 6 days, viz the days, in excess of the statutory minimum, accrued but untaken during the leave year. This year will then become year one of a new carryover cycle in respect of the carryover of leave in excess of the statutory minimum of 20 days.

(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.

15. Sequence in which annual leave must be taken.

In any leave year, an officer must take his/her annual leave allowance in the following sequence :-

(i) any part of the statutory minimum annual leave allowance carried forward from the previous leave year (which must be taken within six months of the start of the new leave year),

(ii) the statutory minimum annual leave allowance accrued during the leave year,

(iii) any leave accrued during the leave year in excess of the statutory minimum, and

(iv) any leave in excess of the statutory minimum which has been carried over from previous leave year(s).

Assignment to higher duties on an allowance basis

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

17. When staff become eligible for a higher duties 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 provided for in paragraph 7.

Anticipation of annual leave

18. Departments may, at their discretion, allow annual leave to be taken before it has actually accrued 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 for in paragraph 22.

19. 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 Secretary General, or equivalent, of the Department is reasonably satisfied that sufficient service will be given to cover the leave anticipated.

20. Annual leave should not normally be allowed to temporary officers during the first three months of service (although leave is accrued 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.

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

21. 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 relevant leave year and the date of termination of appointment, only the amount of annual leave accruing in respect of that period. Every effort should also be made to ensure that officers are facilitated in taking any annual leave entitlement (including carryover leave) in advance of their ceasing employment and in this connection, an officer may be allowed to complete a period of annual leave immediately prior to retirement.

22. 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.

23. The amount to be recovered under paragraph 22 should be based on the number of excess scheduled working days involved.

Payment for untaken annual leave on cesser of employment

24. Under the Act, it is illegal to pay an allowance in lieu of the minimum statutory annual leave entitlement of an officer unless the employment relationship is terminated, in which case the officer is entitled to payment for untaken annual leave accrued at the date of cesser of employment. In this connection, cesser of employment means resignation, retirement or the death of the officer concerned only. An officer who is not currently serving with his/her Department for other reasons, eg because s/he is availing of special leave, is not entitled to any payment for untaken annual leave accrued at the date a period of special leave commences. However, such annual leave should be restored to the officers concerned on resumption of duty. If an officer does not resume duty after special leave (due to resignation, retirement or death) then s/he (or the officer's personal representative in the event of death) should be paid for the untaken annual leave at that stage. Payment in respect of each day of untaken annual leave should be calculated on the basis of one fifth of the normal weekly salary, irrespective of whether staff are paid on a weekly, fortnightly or monthly basis. (For this purpose the weekly salary for staff whose salary is expressed in annual terms is calculated by dividing the annual salary by 52.18 weeks).

Payment of wages in advance to staff on weekly or fortnightly pay

25. 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.

Annual leave and Sick leave.

26. Where, because of illness, an officer cannot take the annual leave allowable in a particular leave year, or years, s/he must be allowed to take the statutory minimum allowance, or any remaining portion of it accrued during the particular leave year, or years, within the timescale specified in paragraph 3 above. In the event of an officer being unable to resume duty in time to comply with that timescale, the officer must be granted all relevant outstanding annual leave once s/he has been certified as fit for duty.

27. Where an officer is absent from duty on certified sick leave at the conclusion of a leave year and is consequently unable to take annual leave in excess of the statutory minimum which would otherwise be forfeit because of the restrictions set out in paragraph 14 above, the untaken leave (up to a maximum of 10 days) may be carried forward to the next leave year. Such leave must be taken as soon as is practicable after the officer's resumption of duty following sick leave.

28. 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. If, during annual leave, an officer falls sick and produces, at the time, a medical certificate to that effect, the period of sickness should be recorded as sick leave and not as annual leave. Pay should be at the sick pay rate. (Annual leave may, of course, be granted immediately following periods of leave such as maternity leave, parental leave, domestic leave, study leave, etc).

Reckoning of service for purpose of determining leave allowance

29. Reckoning of Sick leave

An officer absent from duty on sick leave (on either full pay or half pay) will continue to accrue annual leave. However, no annual leave is accrued when an officer is absent from duty on pension rate of pay or on sick leave without pay. An officer should be paid his/her normal rate of pay while absent on annual leave accrued during relevant period(s) of sick leave, including annual leave accrued while an officer was on half-pay.

30. Reckoning of Prior Service in the Civil Service

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. In general a serving civil servant appointed or promoted (either departmentally or through open or confined competition) to such a grade will, 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/appointment.

31. More favourable arrangements apply where serving civil servants are appointed to the grades of Administrative Officer or Third Secretary (whose annual leave allowance is 21 days rising to 26 days after five years service). Where appointments to these grades are made, any period of continuous service in the civil service given immediately prior to appointment, which attracted an annual leave allowance of not less than the minimum annual leave allowance for the Executive Officer grade (currently 20 days), will

reckon as service for the purpose of qualifying for the increased annual leave allowance available after five years service in the higher grades.

32. Officers who have availed of periods of unpaid special leave (eg on career break) prior to promotion or appointment will not be regarded as having broken their continuity of service for the purposes of paragraphs 30 or 31. (However, any periods of special leave without pay which do not reckon for the purposes of accruing annual leave will not reckon as part of the period of five years service required for additional annual leave in the relevant higher grade(s)).

33. 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. Thus, for example, an officer, with an annual leave allowance of 24 days rising to 29 days after five years service promoted or appointed to a grade with an annual leave allowance of 26 days rising to 31 days after five years service, may :-

(i) where s/he has more than five years, but less than 10 years service in the lower grade, retain 29 days annual leave on appointment to the higher grade, and

(ii) reckon any period of service in either grade where s/he had an annual leave allowance of 29 days as qualifying service for an annual leave allowance of 31 days in the higher grade.

(iii) where an officer is promoted, after say four years service in the lower grade, s/he should be granted (a) 26 days on the date of appointment to the higher grade, (b) 29 days on the date s/he would have attained five years service in the lower grade had s/he not been appointed to the higher grade and (c) 31 days on attaining five years service in the higher grade.

34. Reckoning of Prior Service in the Public Service
Departments now have delegated sanction to determine the annual leave allowances of relevant new recruits by reference to the arrangements for reckoning prior public service set out at Appendix 4.

Department of Finance - October 1999

Appendix 1 to Circular 26/99 Annual Leave Allowances

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

General Service Grades	Days per year
Secretary	31
Deputy Secretary	31
Assistant Secretary	31
Principal (standard scale)	29
Assistant Principal (standard scale)	29

Administrative Officer	26 after 5 years' service	21, rising to
Higher Executive Officer		26
Executive Officer	21 after 5 years' service	20, rising to
Staff Officer		21
Clerical Officer		20
Services Officer		20
Services Attendant		20
Cleaner who works a minimum of 30 hours a week		20
Cleaner who works less than 30 hours a week but not less 18 hours per week	13 days and not more than 20 days depending on hours actually	a minimum of worked

Appendix 1 to Circular 26/99

Certain Grades common to two or more Departments	Days per year	
Principal (higher scale)		31
Assistant Principal (higher scale)		29
Engineer, Grade I (Civil) and Professional Accountant, Grade I		29
Engineer, Grade II (Civil), and Professional Accountant Grade II	29 after 5 years' service	24, rising to
Engineer, Grade III (Civil)	26 after 5 years' service	21, rising to
Assistant Solicitor	26 after 5 years' service	21, rising to

Legal Staff Officer	24
Senior Legal Clerk	21
Legal Clerk	21
Senior Engineering Draughtsman	21
Examiner-in-Charge	21
Examiner of Maps	20
Architectural Assistant Grade II	20
Engineering Draughtsman	20
Sightless Telephonist	20
Law Clerk	20
Mapping Draughtsman	20
Key Punch Operator	20
Laboratory Attendant	20

Appendix 2 - Salary banding system for determining annual leave allowances in the civil service

Band	Salary Range	Minimum		Maximum		Recruitment Grades		Other
		£ per annum	£ per annum	Days per annum	Days per annum	Grades	Days	
1.	Up to £1 below Staff Officer max.			20,186		20		20
2.	Staff Officer max. - £1 below 4th point of HEO (standard) scale.	20,187		23,205		20 rising to 21 after five years service		21
3.	4th point of HEO (standard) scale - £1 below the HEO (standard) scale max..	23,206		25,130		20 rising to 24 after five years service		24
4.	HEO (standard) scale max. - £1 below Assistant Principal (standard scale) maximum.	25,131		34,280		21 rising to 26 after five years service		26
5.	Assistant Principal (standard scale) maximum to Principal (standard) scale maximum.		34,281		45,143		24 rising to 29 after five years service	
6.	Above Principal (standard) scale		45,144				26 rising to 31 after five years service	

max.

years service

Notes

(i) Current salary points set out above date from 1 July 1999 and are the scales appropriate to staff covered by a non-contributory superannuation scheme and paying a modified rate of PRSI.

(ii) In general the standard salary scale for each grade is used to determine the correct annual leave allowance for a particular grade.

(iii) The position of a particular grade in the above salary ranges is based on the "stable pay position" of the grade in question. This means that when claims for possible changes in the annual leave allowances of particular grades are being considered, known or likely future pay movements of the claimant grades and the marker grades are taken into account to ensure that the correct annual leave allowance is determined.

(iv) In order to cope with the problem of grades which are only marginally below the next leave band, grades where the salary maximum, (ie exclusive of any long service increments on the scale), based on a stable pay position, is within 3.5% of the bottom on the next band for annual leave determination purposes, may be regarded as being within the higher annual leave band. Grades whose stable pay position is not within 3.5% of the minimum point of the next band would not be granted the level of leave appropriate to the higher band.

(v) The foregoing arrangements are applied without prejudice to the treatment of exceptional or unusual cases on their merits.

Appendix 3 to Circular 26/99 - Minimum Annual Leave Allowance and Calculation of Leave Allowable for the period 30 September 1997 to 31 March 1999.

1. Under the Organisation of Working Time Act, 1997, depending on the time worked, employees' minimum holiday entitlements should be calculated by one of the following methods :-

(i) Statutory leave year ending on 31 March 1998

(a) 3 working weeks and one day in a leave year (ie 16 days) in which the employee works at least 1,365 hours (unless it is a leave year in which he or she changes employment), or where less than 1,365 hours are worked in the leave year, the more favourable of :-

(i) 4/15ths of a working week per calendar month that the employee works at least 117 hours or

(ii) 6.4% of the hours an employee works in a leave year (but subject to a maximum of 3 working weeks and one day)

(ii) Statutory leave year commencing on 1 April 1998

(a) 3 working weeks and 3 days in a leave year (ie 18 days) in which the employee works at least 1,365 hours (unless it is a leave year in which he or she changes employment), or where less than 1,365 hours are worked in the leave year, the more favourable of :-

(i) 3/10ths of a working week per calendar month that the employee works at least 117 hours or

(ii) 7.2% of the hours an employee works in a leave year (but subject to a maximum of 3 working weeks and 3 days).

2. In accordance with the relevant provisions of paragraphs 6 to 9 of this Circular, and the arrangements for the accrual of a minimum annual leave allowance set out above, Departments should satisfy themselves that staff, who have given extra attendance, between the 30 September 1997 and the start of the 1999/2000 leave year, have been granted the correct annual leave. (In this connection, all job-sharing staff, would have had at least 10 days annual leave during the leave years in question (equivalent to 69.5 hours). The minimum annual leave entitlements for such staff during the period 30 September 1997 to 31 March 1999 are lower than those applying from the start of the 1999/2000 leave year, as follows :-

(a) for the period up to 31 March 1998, the minimum entitlement is 6.4% of hours worked (ie 6.4% of 907 hours = 58.05 hours (8.35 days), and

(b) for the period from 1 April 1998, the minimum entitlement is 7.2% of the hours worked (ie 65.3 hours (9.4 days)).

3. Where the leave year in a particular Department does not run from 1 April to 31 March the following year, the foregoing thresholds may be applied earlier than the dates specified above to coincide with the leave year in the Department concerned. Thus, for example, where the leave year is the calendar year, the arrangements applicable to the year ending on 31 March 1998 and with effect from 1 April 1998 may be applied up to 31 December 1997 and with effect from 1 January 1998 respectively.

Appendix 4 to Circular 26/99

Reckoning of Prior Public Service for Annual Leave Purposes in the Civil Service

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,

(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, and

(iii) service immediately prior to appointment to the civil service must be continuous (periods on career break or other forms of unpaid leave, which do not reckon for the purposes of accruing annual leave, taken prior to entry to the civil service, will not be regarded as a break in the officer's continuity of employment. However, such periods cannot be reckoned for annual leave purposes in the civil service).

2. In relation to (i) above it is not necessary for an officer to transfer the prior public service, but it must be capable of being transferred under the Scheme for the Transfer of Superannuation Rights.

3. The salary scale(s) payable to the officer prior to entry to the civil service is used to determine the correct annual leave allowance for the officer on appointment to the civil service. (The officer's actual annual leave allowance prior to entry to the civil service is not relevant).

4. In examining the salary scale(s) in question account should be taken of whether the scale(s) assume that the employee makes a superannuation contribution. Where a superannuation contribution

has been paid, (eg 5% contribution for health and local authority officers), the scale(s) should be calculated net of superannuation.

5. Once the correct scale(s) are determined, they should be examined by reference to the salary banding arrangements set out at Appendix 2 to determine what annual leave allowance the officer would have had if the relevant prior public service had been given in an equivalent or analogous civil service grade. Where the officer was in one grade for the period of service under review, it is only necessary to examine the officer's final salary prior to entry to the civil service. However, where s/he changed grades during the period under review, it will be necessary to compare the final salary the officer had in each grade by reference to the relevant civil service salaries extant at the time the officer changed grades.

6. In making salary comparisons over time, the officer's salary scale (s) and the relevant civil service scales should have a "common point" of comparison (eg the second phase of a general round increase, same effective date etc).