

30th April 2009

Circular 13/2009: Special Civil Service Incentive Career Break Scheme 2009

A Dhuine Uasail,

1. I am directed by the Minister for Finance to announce a special incentive career break scheme for civil servants applicable in 2009 only, as part of the Government's efforts to achieve a reduction in spending on the paybill. To avail of this scheme, a career break of special leave without pay (hereafter referred to as a "career break") must be taken for three years.

Incentive payment

2. Successful applicants for a career break under this scheme who work full time will be paid an **incentive payment of a third of gross basic pay to a maximum of €12,500, per year**, payable quarterly in arrears, for each year of the 3 year period of the career break incentive scheme. These amounts will be reduced *pro rata* for any person on reduced working hours under the work-sharing arrangements under Circular 31/2001¹. The amount payable is subject to tax and other statutory deductions. The onus is on the officer on career break to ensure that his/her Personnel Section has been supplied with up-to-date bank account details for lodgement of the incentive payment, and that any changes are notified promptly. A person may indicate on the application form (paragraph 8 of Appendix 1) that they wish the first quarterly instalment of the allowance to be paid on commencement of the career break.

Circular 18/98

3. This Circular does not supersede Circular 18/98 and persons may continue to apply for career breaks under that circular. Staff who, on the date of this Circular, are on a career break which commenced prior to that date or have signed a career break undertaking under Circular 18/98, may not opt to have the terms of this Circular applied to them.

Operation of the scheme

4. An application for a career break must be made to the Personnel Section of the parent Department² and copied to the line manager on the form at Appendix 1 no later than **1 July 2009**. Applications from officers on loan should be forwarded, through the Personnel Section of the Department in which they are serving, to their parent Department.

5. Heads of Departments have the discretion, for stated business reasons, to grant or refuse a career break to an officer under the terms of this Circular. While Departments are asked to facilitate applications for career breaks as far as possible, the needs of the work may require that some applications will have to be refused; the operation of the career break scheme is subject to the operating requirements of Departments not being significantly adversely affected.

¹ The applicable hours will be those that apply on the date of the Supplementary Budget 2009 (7 April 2009).

² For "Department", read "Department or Office" throughout this Circular.

A Department may, for stated business reasons, prioritise between applications, having regard to the level of saving achieved by granting certain applications, the location or business area of the person(s) applying, and any other relevant matter. A Department may also refuse an application for a career break under this scheme -

- if the applicant has specialist or hard-to-replace skills or competencies,
- if s/he is in a particular location or business area where high work demands are expected over the term of the career break or where there have been a number of applications for the scheme,
- if there is a potential conflict of interest between the activity in which the officer proposes to engage or engages in during his/her career break and his/her position in the civil service,
- the overall size and /or structure of the office, section or organisation and the challenge of distributing or reallocating the work / duties of the officer, or
- for other stated business reasons.

6. Within four weeks of the date specified for applications in paragraph 4, each Department must submit to the Department of Finance details of applications received, whether granted or refused, the cost of the allowance and projected saving made.

Eligibility

7. Established and unestablished civil servants, who have satisfactorily completed two years' continuous service (periods of special leave without pay in accordance with Maternity Protection Legislation, Adoptive and Carer's Leave and Parental Leave should not be considered to break continuity of service for this purpose) on the date of commencement of the career break may apply for a career break under this scheme, provided that-

- (a) if they have taken a previous career break, they have served for a period equal to the duration of that career break (although the period of service requirement between career breaks may be waived at the discretion of the Head of Department in exceptional circumstances),
- (b) the duration of a career break under this scheme will not extend beyond their minimum retiring age, if applicable,
- (c) the duration of a career break under this scheme will not extend beyond the date for termination of a fixed term contract, or
- (d) they have not previously taken 3 career breaks and will not exceed, with the addition of a career break under this scheme, the limit to career breaks of 10 years specified in paragraph 10 of circular 18/98 (as amended by circular letter of 3 March 2008). Other forms of special leave without pay (other than periods of less than six months, such as special leave taken under Circular 28/91 or short periods of special leave without pay for study purposes) will, in general, be taken into account when calculating this overall limit.

8. Where disciplinary action has been initiated against an applicant (and the application would not otherwise be refused in accordance with paragraph 5), the decision on the application should be deferred pending a resolution of the disciplinary issue.

Purpose of career break and conflict of interest.

9. A career break may be allowed for family reasons, other domestic purposes (e.g. care of a relative), travel abroad, self-employment and educational purposes. Educational purposes may be deemed to encompass certain training courses which include a practical training element for which there is a nominal payment/grant made to the student (e.g. training as a nurse or as a solicitor). Career breaks are not available for taking up paid employment in the State or for educational purposes where the student/trainee is in an employment relationship with the training body and is in receipt of a normal salary/wage. In all cases, applicants should provide clear details of the exact purpose for which the career break will be used.

10. There should be no potential conflict of interest between the activity in which the officer proposes to engage or engages in during his/her career break and his/her position in the civil service (e.g. it should not involve, or be perceived to involve, the use of confidential information gained in the course of official work; it should not improperly influence the officer in the discharge of his/her duties; it should not compromise, or be perceived to compromise, the officer's official position on return from career break). The officer should not undertake any consultancy work, or provide any service in return for payment, for his/her own Department or any other Government Department or public authority while on career break. In order to ensure that the application complies with the above requirements, officers applying for a career break for self-employment must submit to their parent Department full details of the nature of the self-employment, and an outline of their proposed business contacts and proposed client/customer base where appropriate. Any change in the nature of self-employment must also be notified to and sanctioned by the parent Department. The officer may be subject to disciplinary proceedings and may be subject to penalties up to and including dismissal, for failure to notify in accordance with this paragraph.

11. If it comes to the attention of any Department that an officer has taken up employment or otherwise is engaged in activity during his/her career break which is inconsistent with or may cause a conflict of interest with his/her position in the civil service, the terms of the undertaking at Appendix 1 to this Circular may be invoked and the parent Department will contact the officer in writing, stating that the officer must, within two weeks, either:

- cease that employment or stop engaging in that activity and advise the Department in writing that s/he has so done, or
- advise the Department in writing that s/he is not engaged in that employment or that s/he is not engaged in that activity or
- if s/he is engaged in that activity, advise the Department of the reasons why the activity is not inconsistent with, or does not cause a conflict of interest with, his/her position in the civil service.

The parent Department should indicate to the officer that, if s/he does not cease the employment or respond as required, or if, following consideration of the response, the Department considers that the officer is employed, or is engaged in activity which is inconsistent with his/her position in the civil service or may cause a conflict of interest with that position, the Department will notify the officer, giving him two further weeks to advise the Department in writing that either s/he has ceased the activity or employment concerned or is applying for a meeting with the Personnel Officer to make submissions on the matter, following which period (or meeting if held) the Personnel Officer will decide the matter.

In the event that the officer fails to respond in writing to the Department within the two week period or fails to cease the activity or employment concerned or where the Personnel Officer so

decides following the period or any meeting, **the Department will immediately invoke the undertaking to resign from the civil service.** The Department should advise the officer that they will receive no further incentive payment if the undertaking is invoked.

12. On return to duty, or in the event that it comes to the attention of any Department, following return from a career break, that an officer was employed or has engaged in activity during his/her career break which was inconsistent with, or may cause a conflict of interest with, his/her position in the civil service, the officer will be subject to disciplinary proceedings and may be subject to penalties up to and including dismissal, including the refund of any incentive payment made.

Duration/Extension of career break.

13. A career break under this scheme must start **no later than 1 September, 2009**, except

- in the case of a person on maternity leave on 1 September, 2009, it will begin on the date the maternity leave ends, or
- if the Department in writing, for stated business reasons, notifies the applicant that the commencement of the career break must be deferred to a specified date, which shall be no later than 31 December 2009,
- if a decision is deferred in accordance with paragraph 8 of this circular (disciplinary action).

An individual must settle any outstanding liabilities (e.g. imprest, any overpayment of salary) with their Department in advance of commencing the career break; alternatively the first payment of the incentive allowance will be reduced accordingly.

14. A career break under this scheme will be for a period of three years (subject to paragraph 23). A person may apply for an extension of the career break in accordance with circular 18/98 (as amended) which will then become the applicable circular. **No incentive allowance will be paid in respect of any period of extension of a career break.** The total period of special leave without pay must not exceed five years in all.

Non-reckonability of period of career break

15. Special leave without pay for a career break under this scheme will not count as service and will not reckon for increment or towards qualifying service for annual leave or promotion. Neither the special leave nor the incentive payment will count for superannuation purposes. Participants may not avail of any form of paid leave (e.g. sick leave) during the period of special leave. Persons on special leave under this scheme will not be considered for promotion and/or notified of competitions. Other than that, a civil servant on special leave without pay for a career break under this scheme retains his or her civil servant status and is subject to all relevant legislation and codes, including the code of conduct and disciplinary code.

Filling of vacancies

16. Departments/Offices should normally reallocate or re-organise work or staff, where any vacancy arises under this scheme. The filling of vacancies arising through persons availing of special leave, including through the granting of higher duty allowances, will be subject to current Government policy on public service numbers and, in particular, the moratorium on recruitment and promotion.

Promotion and other appointments

17. Staff on career break may apply for open recruitment competitions for which they are eligible (for grades other than their current grade). If offered an appointment as a result of the competition, they will be required to end the career break. No further incentive payment will be paid from the date that they take up appointment.

18. The starting pay on appointment from an open competition of an officer on career break will be calculated as though s/he were a serving civil servant at the time of the appointment. As stated in paragraph 15 above, the period of absence on career break will not count as service.

Return to duty

19. Officers are required to contact their parent Department, in writing, at least two months before expiry of the career break, to indicate whether they wish to (a) resume duty on expiry of the career break, (b) apply for an extension to the career break under paragraph 14 (if appropriate) or (c) resign from the civil service. **Where an officer fails to contact the parent Department before the expiry of the career break, s/he will be deemed to have resigned from the civil service from the date of the expiry of the career break (see paragraph 23 below and the signed undertaking on the application form - Appendix 1).**

20. An officer, who indicates s/he wishes to resume duty, will be assigned to the next appropriate vacancy to be filled following the expiry of the career break, with a guarantee of re-employment in a relevant grade (not necessarily in his/her existing Department) within twelve months of the expiry of the career break. An appropriate vacancy, for these purposes, is a fillable vacancy, in the officer's grade and Department, in the location in which he/she was serving immediately prior to commencing the career break. In the context of this Circular, "location" means geographic area, with the Dublin area being treated as one such location (save any change to such arrangements made in accordance with a collective agreement negotiated with the staff side).

21. Where an appropriate vacancy exists, or where it is known when one will arise, and the officer has indicated that s/he wishes to resume duty in accordance with paragraph 19, the parent Department should contact the officer, giving him/her reasonable notice of the date for resumption of duty, bearing in mind the officer's circumstances and making it clear to the officer that, if s/he fails to report for duty on that date, the Department reserves the right to invoke the terms of the undertaking (at the end of the application form - see Appendix 1) and accept his/her formal offer of resignation from the civil service. In the event of the officer failing to report for duty on that date, the parent Department should contact him/her to inform the officer that the terms of the undertaking have been invoked and that the parent Department accepts his/her resignation with effect from the last day of the career break. An officer may not defer reporting for duty on the grounds that s/he has requested a change of location or work-sharing (see paragraph 27 and 28 below). In the event that a person claims that they cannot resume duty on the grounds of illness, they should be referred immediately to the Office of the Chief Medical Officer (CMO).

22. Where an appropriate vacancy does not exist, the parent Department should contact the officer at once to notify him/her of the position, indicating, where possible, when it is likely that a suitable vacancy may arise. Where it is likely that the officer may be reassigned to another Department, his/her parent Department should alert him/her to that possibility. Officers, who are waiting to resume duty at the end of their career break, should be advised to contact the Department of Social and Family Affairs to ascertain whether or not they have any entitlements to jobseekers or any other benefits.

23. **Where an officers fails to contact or respond to his/her parent Department, or report for duty, as required under paragraph 19 or 21 above, s/he will be deemed to have resigned from the date of the expiry of the career break.** The parent Department should inform the officer, in writing to his/her last known address, that the terms of the undertaking have been invoked (see Appendix 1) and that the parent Department accepts his/her resignation with effect from the last day of the career break, without further notice being given to the officer. **As specified in the undertaking, the onus is on the officer on career break to ensure that his/her Personnel Section have been supplied with an up-to-date contact address and telephone number.**

24. In view of the serious consequences which may arise as a result of non-compliance with the terms of the undertaking with regard to resumption of duty, Departments are advised to ensure that correct procedures are followed, that written correspondence is sent by registered post, and that the officer on career break is kept informed at all times of the steps being taken of the current position. This applies to any officer whose career break is coming to an end, regardless of whether or not they have indicated that they wish to resume duty.

25. If more than one officer in the same grade, Department and location is on career break either under circular 18/98 or this scheme, the order of priority in timing each return will be based on the chronological order in which the respective career breaks expire and, if necessary, on the chronological order in which the respective career breaks commenced and seniority (if necessary).

26. Once an officer has indicated to the parent Department that s/he is available to return to duty, any time spent waiting for re-employment after the expiry of the career break (other than any delay on the part of the officer) will reckon as part of the career break period other than for purposes of the overall limits relating to duration of career breaks, as specified in paragraphs 7 and 14 above. **No incentive payment will be payable in respect of any time spent waiting for re-employment.** There is no preclusion on seeking employment elsewhere while awaiting resumption of duty, subject to the avoidance of any conflict of interest between such employment and the person's continuing status as a civil servant.

27. An officer does not have an entitlement to return to duty in a location other than that in which s/he was serving on commencement of the career break. However, Departments are asked to facilitate requests for change of location where feasible and subject to any applicable transfer requirements.

28. An officer does not have an automatic right to return to duty in a work-sharing (or part-time) capacity, even if s/he had been before commencing the career break. However, Departments are asked to facilitate such requests where feasible.

29. A person on a career break under this scheme may, for exceptional reasons related to family hardship, apply to resume work no earlier than 6 months after commencing the career break. The Head of Department may, at his/her discretion, allow an officer to resume duty before the expiry of his/her career break, provided s/he is satisfied that there are exceptional reasons related to family hardship, it is in the interests of the work of the Department, that there is a fillable vacancy in the relevant grade in the Department and it does not disadvantage another officer by reference to the order of priority outlined in paragraph 25 above. No further incentive allowance will be paid to the officer.

Superannuation Arrangements

30. As stated in paragraph 15 above, the period on career break does not reckon for superannuation purposes. However, an officer may, in certain instances, have the period reckoned for superannuation purposes by making a contribution of an appropriate percentage of salary. As the arrangements and the percentage of salary may differ depending on an officer's individual circumstances, officers are advised to clarify the position with their own Personnel Section prior to commencing the career break.

Social Welfare Arrangements

31. As the arrangements, if any, for payment of certain social welfare contributions, or receipt of certain social welfare benefits or allowances, while on career break, may vary from time to time, officers are advised to check out their own individual situations with the Department of Social and Family Affairs prior to commencing a career break and to check, periodically, as to the up-to-date position.

Queries

32. Officers should address queries in relation to this Circular to the Personnel Section of their parent Department.

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Patricia Coleman

Director

To: All Departments, etc.

Appendix 1

APPLICATION FOR SPECIAL LEAVE WITHOUT PAY FOR A CAREER BREAK UNDER THE SPECIAL INCENTIVE CAREER BREAK SCHEME FOR CIVIL SERVANTS 2009

*[Applicants are advised to read this form and the associated circular13/2009[referred to below as "the Circular"] carefully before signing. Applicants who are uncertain as to the meaning of any of the contents of the form should seek clarification from their Personnel Section. Officers are, of course, free to seek independent advice. The application must be submitted to the Personnel Section by 5.30pm on **1July 2009.**]*

1. NAME: _____

2. MALE/FEMALE (delete as appropriate)

3 OFFICIAL ADDRESS:

4. CURRENT GRADE _____

5. DATE OF BIRTH _____

6. PURPOSE FOR WHICH CAREER BREAK IS SOUGHT: *(reference paras 9-11 of the Circular)*

FAMILY REASONS _____

OTHER DOMESTIC (give full details)

EDUCATIONAL (give full details)

TRAVEL ABROAD _____

SELF EMPLOYMENT (give full details)

OTHER _____

7. PREVIOUS CAREER BREAK(S) OR OTHER FORMS OF SPECIAL LEAVE WITHOUT PAY:

Please state purpose, duration and dates of any career break or other form of special leave without pay previously taken (excluding periods of less than six months)

8. INCENTIVE PAYMENT

(a) DETAILS OF BANK ACCOUNT FOR LODGEMENT OF INCENTIVE PAYMENT

(include bank sort code) _____

(b) I would/would not prefer the payment of the first instalment of the allowance at the beginning of my career break. I understand that if I opt for early payment of the first instalment, the next payment will be six months later.

9. ADDRESS AND PHONE NUMBER at which I can be contacted while on career break (*reference para 23 of the Circular and the undertaking overleaf*);

UNDERTAKING

I understand that the conditions of my career break are as stated in Circular 13/2009, a copy of which has been given to me.

My attention has been particularly drawn to paragraphs 19-29 dealing with return to duty following the expiry of my career break, to paragraph 9 regarding notification of the purpose of the career break, in particular any details of employment or self-employment, or any change to same and to paragraph 10 regarding conflicts of interest while on career break, and the possible consequences of same.

I understand that my career break expires on *(date should be inserted)*.

I hereby undertake

- to notify my parent Department of any change of address or any change of bank account details for correspondence purposes within one week of such change;
- to notify my parent Department in writing, at least two months before expiry of the career break, to indicate whether I wish to resume duty on expiry of the career break, to apply for an extension to the career break or to resign from the civil service;
- to respond promptly to any correspondence from my parent Department concerning my intentions on the expiry of my career break or any other matters concerning my career break;
- to return to duty on such date following the expiry of my career break as directed.

I understand that in the event of my failure to confirm in writing my intentions at least two months before the expiry of my career break or in the event of my failure to report for duty on such date following the expiry of my career break as directed, this undertaking will be invoked and will constitute a formal offer of resignation from the Civil Service with effect from the last day of my career break, effect to be given to such resignation by written notification to me by my parent Department of their acceptance of my resignation.

I further understand that in the event that it comes to the attention of my parent Department that I have taken up employment or am engaged in any activity which is inconsistent with or may cause a conflict of interest with my position in the Civil Service, my parent Department will contact me in writing stating that I must, within two weeks cease the employment or activity and advise the Department of this in writing or alternatively advise the Department in writing that I am not employed or engaged in any activity which is inconsistent with or causes a conflict of interest with my position in the Civil Service. If, after considering my response, the Department continues to be of the view that I am employed or engaged in inappropriate activity, the Department will give me a further two weeks to cease such employment or activity and to notify the Department of this in writing, or to apply for a meeting with the Personnel Officer.

In the event that, I fail to respond in writing to the Department within the two week period or fail to cease the activity or employment concerned within this period or where, the Personnel Officer so decides following the period or any meeting, this undertaking will immediately be invoked, and constitutes my formal resignation from the Civil Service effective from the last date of the two week period. All payments will cease from that date.

SIGNED: _____

DATE: _____

A copy of the completed, signed, form should be given to the officer to be retained by him/her while on career break.