

Reference No: E103/3/75; **Date:** 30/10/76

Circular 2/1976:- Special Leave

A Chara

I am directed by the Minister for the Public Service to state that he has decided to consolidate the existing confidential instructions regarding the grant of special leave to Civil Servants and to delegate further powers in the matter to Departments. All previous Confidential Circulars on the subject are superseded accordingly. General circulars which continue to apply are referred to briefly for convenience; they should be consulted in detail as necessary. This Circular Letter and the provisions in the Circulars referred to contain all existing instructions in relation to special leave.

1.2 The provisions of the Circular are grouped under the following parts:

Part	Title
I	To whom applicable
II	Provisions which apply generally
III	Domestic difficulties; illness, bereavement etc
IV	Marriage
V	Maternity: Care of young children
VI	Transfers
VII	Courses, examinations etc
VIII	Acceptance of positions outside the civil service
IX	Contact with infectious diseases
X	Other miscellaneous situations
XI	General sanction for situations not already covered

PART I: TO WHOM APPLICABLE

2.1 This Circular Letter applies to all permanent officers. In the case of temporary officers, special consideration will be necessary if the question should arise of applying the provisions which permit the grant of relatively long periods of leave (regard being had in particular to the likely duration of the temporary appointment). The provisions permitting short periods of leave will apply to temporary officers except where stated otherwise.

2.2 This Circular Letter should not be regarded as covering industrial classes unless the contrary is indicated.

PART II: PROVISIONS WHICH APPLY GENERALLY

Officers on probation

3.1 In the interests of the officer and his Department, special care should be taken in dealing with applications for special leave from officers on probation.

Requirements of the public service

4.1 The grant of special leave must at all times be subject to the exigencies of the public service. The purpose for which it is granted must always be compatible with the recipient's position in State employment.

Reckoning of periods of special leave

5.1 A Sunday, Public Holiday or Saturday (in the case of staff on a Monday to Friday 5-day week) falling within a period of special leave need not be reckoned against any limits of leave allowable which are expressed in days - for instance 3 days' special leave beginning on a Friday would extend to the following Monday and Tuesday. No pay should, however, be issued for Sundays, Public Holidays or Saturdays (as defined) falling within a period of special leave without pay and an officer is not eligible, on return to duty, for a day in lieu of a Public Holiday occurring within a period of special leave, with or without pay.

5.2 Sundays, Public Holidays and Saturdays (as defined in paragraph 5.1) occurring at the beginning or end of a period of special leave (paid or unpaid) may be treated as days on which the officer is on duty.

Utilisation of Annual Leave

6.1 As a general rule, officers to whom special leave without pay is being allowed should be required to apply their annual leave allowance in the current leave year, or the balance thereof, towards the purpose for which the special leave is sought. This rule may, however, be departed from where the Head of the Department is satisfied that special considerations apply which justify exemption. Except where provision otherwise is made, special leave with pay may be allowed without reference to eligibility for annual leave.

Status of officers on special leave

7.1 A civil servant on special leave retains his civil service status. During the period of special leave he remains subject to the provisions of the Civil Service Regulation Acts, 1956 and 1958, and any other regulations governing the conduct of civil servants, particularly those relating to civil servants and politics.

Replacement of officers on special leave

8.1 The following arrangements will apply to the filling of consequential vacancies where officers are allowed special leave without pay for reasonably long periods:

(i) Vacancies arising in recruitment grades may be filled without reference to this Department, except where there is likely to be difficulty about the redeployment of a redundant officer when the officer on special leave resumes duty. In such cases, this Department should be consulted before the vacancy is filled.

(ii) In the case of vacancies arising in promotion grades, the requirement to obtain this Department's authority for the filling of such vacancies, whether by promotion or by the assignment of an officer to higher duties on an allowance basis, will continue to apply.

Return to duty

9.1 It obviously must be a condition of the grant of special leave that there is no reason to doubt that the applicant will return to civil service employment when the leave ends.

Effects of special leave on increments etc

10.1 Special leave with pay, whether or not it is subject to recoupment, reckons as service.

10.2 Subject to any specific arrangements to the contrary and, in particular, to the provisions of 10.3, special leave without pay does not reckon for increment, superannuation or annual leave. (The payment of increments related to age is not, of course, affected.) Where, for instance, the period of special leave without pay is to follow the officer's annual leave allowance or the remainder thereof, care should be taken, in calculating the amount of annual leave allowable, to effect a reduction in the annual leave proportionate to the amount of special leave without pay. For example, if the officer's annual leave allowance is 20 days and a period of special leave without pay of 3 months is granted, only 15 days' annual leave will be allowable during that leave year. If an officer, having taken his full annual leave allowance, is at a later stage in the same leave year granted special leave without pay, the excess annual leave will fall to be deducted from the annual leave appropriate to the next leave year.

10.3 A civil servant who has served, on special leave without pay, with an international organisation (other than the EEC - see Appendix) may, if the Head of his Department thinks fit, be granted a special advance in salary, subject to the following conditions:

(a) The officer was not at the maximum of his salary scale on the date of release to the international organisation.

(b) The special advance is granted on that scale.

(c) The question of granting a special advance in salary is not determined until at least one year has elapsed from the date of the officer's return to duty.

(d) The Head of the Department is satisfied from adequate practical experience that the value of the officer's service has been enhanced because of his appointment with the international organisation to a degree meriting the concession.

(e) The officer is not placed more than one point higher on the salary scale than he would have reached by incremental progression had his period of service with the international organisation been served in his own Department.

(f) The special advance is made effective from the date of the decision to grant the advance or such later date as the Head of the Department may decide.

(g) The Head of the Department may also, subject to condition (d) above direct (after at least a year has elapsed from the date of the officer's return to duty) that the officer's incremental date before release to the international organisation be restored with effect from a date which is not earlier than the date of the direction.

Special cases

11.1 Should a case arise which is not covered by the instructions in this Circular Letter and in which the Head of the Department is prepared to recommend the grant of leave, a special submission should be made to this Department.

Holidays (Employees) Act, 1973

12.1 The provisions of this Circular Letter should, where relevant, be regarded as modified by the Holiday (Employees) Act, 1973, in relation to officers to whom that Act applies.

PART III: DOMESTIC DIFFICULTIES: ILLNESS, BEREAVEMENT ETC

General provisions applying to this section

13.1 In this Section the expression "immediate relative" is to be interpreted as a father, mother, brother, sister, husband, wife or child.

13.2 The provisions of this section may be applied to all officers, including industrial classes, subject to the second sentence of paragraph 2.1. Also where the employment is purely casual in nature, persons holding such employment will not be eligible for special leave with pay.

13.3 Before granting special leave under this section, Departments must satisfy themselves that the circumstances fully justify the concession allowed. The maximum periods of special leave should be granted in only the most deserving cases. Where short periods of leave are concerned, it may be necessary to reduce the number of days which might otherwise be allowed because of the intervention of non-working days, e.g. a week-end. The provisions under different paragraphs should not, of course, be combined to extend the period of leave allowed in a particular situation.

Special leave with pay

14.1 Special leave with pay for a period not exceeding three days may be allowed (i) on the death of an immediate relative or, (ii) in exceptional circumstances, on the death of a more distant relative, where, for instance, the officer has to take charge of funeral arrangements or has resided in the same house as the deceased. Where an immediate relative dies abroad and the officer has to go abroad to take care of the funeral arrangements, up to 10 days special leave with pay may be allowed.

14.2 In the case of the serious and unforeseen illness of an immediate relative or in exceptional circumstances of a more distant relative, special leave with pay may be granted up to a maximum of three days in any one leave year, where the annual leave for which the officer is eligible during the current leave year has been exhausted. Where the illness proves fatal, special leave, as provided at 14.1 will, in addition, be allowable.

Special leave without pay

15.1 Special leave without pay up to a maximum period of two months may be granted in special circumstances for urgent domestic affairs, irrespective of whether special leave with pay may have been granted under 14.1 or 14.2 above. Where special leave is sought for the purpose of coping with family difficulties arising from the death or serious illness of an immediate relative, the amount of leave without pay allowable may be extended to six months.

15.2 Provided that no other suitable person is available to undertake the task, special leave without pay up to a maximum period of six months may be granted for the care during illness or old age of an immediate relative or, in exceptional circumstances, of a more distant relative.

15.3 Special leave without pay up to a maximum period of two months may be granted to enable an officer to travel abroad to visit an immediate relative or, in exceptional circumstances, a more distant relative, who is suffering from serious and unforeseen illness provided that the officer is the only relative able to make the visit.

PART IV: MARRIAGE

16.1 Circular 44/74 provides that an officer may be allowed up to a maximum of 5 days' special leave with pay on the occasion of his/her marriage provided that the amount of special leave granted for this purpose together with the officer's annual leave allowance in respect of the leave year in which the marriage takes place does not exceed a total of 23 days, excluding any annual leave carried over from the previous leave year. (On the basis of a 6-day week the figures would be 6 and 27, respectively.) This special leave may be allowed only where the Head of the Department is satisfied that the officer intends to return to duty after marriage.

16.2 Any officer or industrial employee may be allowed a week's special leave without pay immediately before or after marriage.

MATERNITY: CARE OF YOUNG CHILDREN

Maternity leave

17.1 The arrangements governing absence by civil servants due to maternity are contained in Circular 4/75. Detailed instructions about the application of that Circular are contained in Circular Letter 3/76.

Care of young children

18.1 As mentioned in Circular Letter 3/76, special leave beyond that provided for in paragraph 2(9) of Circular 4/75 is not available to married women under present arrangements for the purpose of caring for young children. This provision does not, however, preclude the grant of special leave to a married woman, under paragraphs 14.2 and 15.2 above, for the care of her children while ill.

PART VI: TRANSFERS

19.1 Paragraph 26 of the instructions governing the payment of removal expenses, issued with Circular 53/74, provides that special leave with pay for a period not exceeding 3 days may be allowed to householders who qualify for recoupment of removal expenses under the provisions of those instructions.

19.2 It is not the intention that special leave be allowed to an officer to enable him/her to accompany his/her spouse who is transferred to a new location. This provision need not, however, preclude the grant of a short period of special leave without pay (not to exceed two months) where definite arrangements have been made to enable the officer within that period to transfer to a civil service office at the new location.

PART VII: COURSES, EXAMINATIONS ETC

Primary degree courses post-graduate courses. specialised courses of study

20.1 In applying paragraphs 21.1, 21.2 and 21.3 to officers with relatively short service in their present grade, care should be taken so as not to circumvent the current practice of the Civil Service Commission in relation to applications for deferment of appointment for study purposes. The Commission should be consulted as necessary.

21.1 Special leave without pay for up to one academic year may be allowed where an officer who has been attending the night lectures of a primary degree course wishes to attend the day lectures of the final year of the course and where by so doing, his attendance at the course is shortened by one year.

21.2 An officer in the final year of a primary degree course being pursued in his own time may be allowed special leave without pay for up to two months for study or other purposes directly relevant to the course. A short period of special leave without pay may be allowed for study purposes before an examination for which special leave with pay may be granted under paragraph 26.1.

21.3 Special leave without pay for up to one academic year may be allowed to enable an officer to pursue a post-graduate University course or any specialised course of study, provided the Head of his Department is satisfied that the course will be of direct benefit to the applicant in the performance of his official duties in his Department and provided a reasonable period of service has already been given in his existing grade by the officer concerned.

Training courses other than language courses

22.1 Where the following four conditions are satisfied, payment of the necessary fees, travelling and subsistence expenses incurred in connection with attendance by an officer at a training course, seminar etc. may be made by a Department without reference to this Department:

(a) The Head of the Department is satisfied that the attendance of the officer at the course is desirable in the interests of the work of the Department and that the officer should be regarded as on official duty during his attendance.

(b) The training is held in Ireland or in Britain.

(c) The training is not available within the civil service in the sense that either no course of a suitable nature is currently provided or, if provided, that it will not be held soon enough to meet urgent pressing needs.

(d) The duration of the training is not longer than three months.

22.2 Where the conditions above are not fulfilled it will be necessary to obtain this Department's authority before special leave, with or without pay, can be allowed. The reference to this Department should always be made some weeks before the proposed attendance at the course so that authorisation may be received in time. It should not normally be necessary to refer cases for a decision on 22.1(a). Departments should be able to decide the issue for themselves.

22.3 Where the training needed is not available within the civil service, the facilities of the Institute of Public Administration should be fully explored before going further afield. This Department's Training Section (Extension 307) will be glad to advise, when it can, on the nature and value of particular training courses, etc., especially in the fields of administration and management.

Irish Language Courses

23.1 Circulars are issued from time to time regarding courses, scholarships, etc. provided by Gaeleagras na Seirbhíse Poiblí.

Foreign Language Courses

24.1 Circular 12/68 allows the grant of special leave without pay not exceeding one month, subject to specific conditions, for the purpose of studying French, German, Italian or Dutch abroad. (Attendance at foreign language courses held in this country is dealt with in Confidential Circular 14/72).

School of Public Administration

25.1 The grant of special leave with pay to attend the School of Public Administration is governed by Circular 18/75.

Examinations

26.1 Circular 33/64 provides for the grant, subject to certain conditions, of special leave with pay for the purpose of attending examinations held by the Civil Service Commissioners, the Department of Education, the Universities, recognised professional institutions, the Institute of Public Administration and other similar bodies. The terms of the Circular may also be applied to attendance at examinations conducted by the Local Appointments Commissioners.

PART VIII: ACCEPTANCE OF POSITIONS OUTSIDE THE CIVIL SERVICE

General provisions governing this Section

27.1 Except to the extent provided for in the following paragraphs in this Part, leave should NOT, without the specific sanction of this Department, be allowed to civil servants for the purpose of enabling them, even on a trial basis, to accept employment outside the civil service or to qualify themselves for such employment. Consideration is being given to the issue of guide lines about the short-term secondment of civil servants, normally on an exchange basis, to other parts of the public service for the purpose of broadening their experience.

27.2 Where special leave is allowed the officer will, except where otherwise indicated, have the choice of

- (1) special leave without pay or
- (2) special leave with pay subject to recoupment of total remuneration plus a contribution in respect of superannuation plus any employer social welfare contributions paid on his behalf.

Positions with the European Communities

28.1 Save in exceptional circumstances, special leave without pay may be allowed to an officer who intends taking up appointment with the European Communities. An officer who wishes to obtain special leave must formally apply for it well in advance of the time he is due to take up such an appointment.

28.2 It is expected that an officer taking up an appointment with the European Communities intends either to make his career with a Community institution or to spend a substantial number of years there. Special leave may accordingly be allowed for an indefinite period up to the minimum retiring age (normally 60). An application to continue special leave beyond that age should be carefully considered in the light of the circumstances then existing. The conditions which apply to officers granted special leave to take up appointments with the European Communities are given in the Appendix.

28.3 An officer who takes up an appointment without being granted special leave for the purpose will be regarded as having voluntarily resigned and thus terminated his services. If he so resigns before pension age, his superannuation benefits will be preserved, provided he has a minimum of 5 years' reckonable service.

Other service abroad

29.1 Special leave may be allowed to civil servants to enable them

- (a) to take up or retain appointments with international organisations (other than the EEC) of which Ireland is a member, or
- (b) to serve overseas under the auspices of missionary or charitable organisations.

29.2 The special leave allowed will be subject to the following conditions:

- (a) The Minister in charge of the Department in which the officer is serving must approve the grant of special leave and the release of the officer concerned.
- (b) The total period of leave should not exceed 5 years, including extensions and regardless of the number of organisations served. Where exceptional circumstances exist which are considered to justify a period of leave beyond five years the sanction of the Minister for the Public Service should be sought.

(c) An officer who has not reached the minimum retiring age (normally 60) will be allowed return to the home service on giving adequate notice provided he has not in the meantime become disqualified for the service, he satisfies health requirements, his appointment abroad had not been terminated on grounds which would warrant dismissal from the home service and a suitable vacancy exists. An officer who has reached the minimum retiring age will not be allowed return to the home service.

Charitable, Social and Cultural organisations

30.1 Special leave for up to one year may be allowed for the purpose of service in this country with voluntary organisations engaged wholly or mainly on charitable work, community welfare or work directly related to the Irish language or other aspects of the national culture. Examples of these organisations would be:

The Simon Community
The Society of St Vincent de Paul
The Legion of Mary
Local Community Centres
Conradh na Gaeilge
GAA
Comhaltas Ceoltóirí Éireann

30.2 The grant of special leave under 30.1 is subject in particular to the conditions that

(i) any Department(s) concerned with the organisation in question or its work would be consulted beforehand; and

(ii) the grant of special leave would be approved by the Minister in charge of the applicant's Department.

PART IX: CONTACT WITH INFECTIOUS DISEASES

31.1 A civil servant who has been in contact with any infectious disease other than scarlet fever, measles, rubella (german measles), whooping cough, chicken pox or mumps should absent himself from duty if, and for as long as, his doctor advises and should inform his superior officer of the position. If he has been in contact with diphtheria and a swab has been taken he should not return to work until he obtains a clearance certificate. A civil servant who reports that he has been in contact with an infectious disease should be warned to avoid further contact.

31.2 Enforced absences on account of contact with persons suffering from infectious diseases may be treated as special leave with pay. In all such cases, however, the officer will be expected to comply at once with any directions which may be given by his Department and to take all practicable steps to resume duty as soon as possible. Otherwise, unless adequate reason is shown for non-compliance, the question of withholding pay will arise.

31.3 In all cases of doubt or difficulty arising out of the provisions in this part of the Circular the advice of the Chief Medical Officer should be sought.

31.4 The provisions in this part are applicable to all officers, including industrial classes.

PART X: OTHER MISCELLANEOUS SITUATIONS

Conciliation and Arbitration

32.1 Paragraph 7 of the Scheme of Conciliation and Arbitration for the Civil Service issued with Circular 26/76 deals with the grant of leave with pay in certain circumstances to staff representatives for attendance at General Council meetings etc.

32.2 Circular 26/74 (Special Leave for staff association purposes) provides for the grant of special leave with pay to duly authorised officers of certain staff associations for the purpose, for example, of attendance at the associations' annual conference or special delegate conferences of the Irish Congress of Trade Unions.

Attendance in Court

33.1 Instructions on the subject of attendance of civil servants as witnesses in Court are to be found in Circulars 5/52 and 8/58. A circular dealing with jury service will issue shortly.

Training with the Reserve Defence Force

34.1 The special leave facilities available to enable civil servants to attend courses of training with the Reserve Defence Force or at the Civil Defence School of the Department of Defence are outlined in Circulars 3/53 and 22/62, respectively. The number of days allowable under these Circulars should, where it exceeds 5, be adjusted to take account of the subsequent introduction of the 5-day week, where applicable. For example, 7 days leave, being 1 week and 1 day in the context of a 6-day week, becomes 6 days (1 week and 1 day) in the context of a 5-day week. Annual leave allowances referred to in Circular 3/53 should similarly be adjusted, 15 days becoming 13 days and 18 days becoming 15 days.

Attendance at Army Pensions Board

35.1 Special leave with pay may be allowed to officers (other than persons whose employment is purely casual in nature) in respect of any period of necessary absence from duty due to attendance at the request of the Army Pensions Board for a medical examination in connection with the award of a Disability Pension. Special leave without pay for this purpose may be allowed to officers who are not eligible for special leave with pay.

Day in lieu of Privilege Holiday

36.1 A day in lieu may be allowed, either immediately preceding or within a period of one month afterwards, to officers who are entitled to a privilege holiday but are required to be on duty on that day.

PART XI: GENERAL SANCTION FOR SITUATIONS NOT ALREADY COVERED

37.1 Special leave without pay may be allowed, at the discretion of the Head of the Department, for up to two months to any member of the staff (other than those industrial employed on a purely casual basis), including those who are employees, provided the following conditions are fulfilled:

(1) The purpose for which the leave is sought must be reasonable in itself and not incompatible with the applicant's official position. In particular, special leave must not be allowed to enable a member of the staff to take up or to qualify for outside employment unless such special leave is permitted under the earlier provisions of this Circular Letter.

(2) Due regard must be had to the work requirements of the Department and the possibility, where appropriate, of the officer making alternative arrangements not involving special leave.

(3) The amount of leave allowed must be kept to a minimum and it must not in any way contravene the arrangements laid down in this Circular Letter or elsewhere in respect of specific

situations, e.g. the limit to special leave allowable after maternity leave under paragraph 2(9) of Circular 4/75. (See paragraph 18.1)

(4) Any other Departments, in particular the Department of Foreign Affairs, which are concerned with the purpose for which the leave is sought must be consulted as appropriate.

Mise le meas
John McGartoll

Appendix to DPS Circular Letter 2 /76

Conditions applicable to Civil Servants who take up appointments with the European Communities

1 General

During the period of special leave the officer will remain subject to the provisions of the Civil Service Regulation Acts 1956 and 1958 and of the circulars relating to civil servants and politics.

2 Promotion

(a) Service with the Communities will reckon towards qualifying service for promotion.

(b) An officer will be considered for departmental promotion in the home service during his period of special leave.

(c) Any officer whose normal avenue of promotion is through interdepartmental competition will have his expenses paid to allow him to compete once in a five year period commencing from the time he is first eligible or within five years of appointment to the Communities if he is already eligible at that time.

(d) It will be for an officer himself to decide whether to accept promotion, if offered, and return to the Irish civil service or to refuse promotion and continue in the service of the Communities.

3 Return to the Irish Civil Service

(a) An officer who has not reached the minimum retiring age will be allowed return to the home service on giving adequate notice (normally six months), provided he has not in the meantime become disqualified for the service, he satisfies health requirements, his appointment with the Communities had not been terminated on grounds which would warrant dismissal from the home service and a suitable vacancy exists. An officer who has reached the minimum retiring age will not be allowed return to the home service.

(b) The arrangements regarding the return of an officer to the home service will be as agreed at that time between the officer and his parent Department.

(c) On his return an officer will be placed on the point on the salary scale he would have reached by incremental progression had his period of service with the Communities been served in his own Department in the grade in which he was serving at the time he transferred from the Irish civil service. An officer returning on promotion will be afforded starting pay on promotion terms by reference to incremental progression on that basis.

(d) (i) This sub-paragraph applies to an officer whose service with the Communities terminates because of redundancy before he reaches the minimum retiring age in the Irish civil service,

who wishes to return to that service and who would be eligible so to return under sub-paragraph (a) of this paragraph if a suitable vacancy for him existed.

(ii) If no suitable vacancy exists for the officer in the Irish civil service, he will be eligible for the application to him of the provisions of section 6 of the Superannuation and Pensions Act, 1963.

4 Pensions

Where special leave without pay has been granted the following arrangements will apply:

(a) If an officer remains in the service of the Communities he may receive an award under the Superannuation Acts on reaching the minimum retiring age, or on termination of special leave, if later, provided that an earlier award may be made where retirement is due to ill-health. The award will be based on actual paid home service and on the pay appropriate, at the time the award becomes payable, to the post in which he was serving when he transferred from the Irish civil service. [Attention is drawn to the fact that in the existing pension scheme for staff of the Communities a minimum of 10 year's service with the Communities is required to qualify for pension therefrom, but that an officer with less than 10 years service with the Communities who attains age 60 while in such service qualifies for a pension on the basis of actual service with the Communities.]

(b) If the officer returns to the home service having qualified for payment of pension (actual or deferred) from the Communities, the period with the Communities will not reckon for home superannuation. His prior and subsequent pensionable home service will be aggregated for superannuation purposes. But if he opts to have his Communities pension rights transferred to his home service, then the arrangement set out in the second sentence of paragraph 4 (c) following will apply.

(c) If an officer returns to the home service not qualifying for a Communities pension, he will have the choice of requesting the Community to make a direct payment to the Minister for the Public Service in respect of the superannuation rights earned by his service with the Communities, or of receiving a severance grant under the Communities pension scheme. If he opts for the former, he will be treated for the purposes of civil service superannuation as if he has never left the civil service and the payment will also be regarded as discharging liability for contributions under the widows' and children's scheme during the period of service with the Communities. If he opts for the latter, the period of service with the Communities will not count for civil service superannuation.

(d) Contributions to the widows' and children's scheme will not be refunded on transfer to the Communities. In the event of death while on transfer, the Irish widows' and children's benefits and death gratuity would be based on service at the date of transfer and home pay obtaining at the date of death and any charge for prior non-contributing service would be based on that pay. Where an officer does not return to the Irish Civil Service and qualifies for a pension therefrom, contributions for prior non-contributory service and benefits under the widows' and children's scheme will be based on the pay and service reckoned for the pension.

(e) The above arrangements are subject to the enactment of appropriate amending legislation.