

Reference No: E103/1/87; **Date:** 19/11/91

Circular 33/1991:- Special leave without pay to take up an appointment with an institution of the European Communities or other international organisation of which Ireland is a member

A Dhuine Uasail,

1. I am directed by the Minister for Finance to refer to the provisions of DPS Circular Letter 2/76 insofar as it deals with the conditions applicable to civil servants who take up appointments with an institution of the European Communities (EC) or other international organisation of which Ireland is a member.

2. This Circular is being issued to clarify and to amend certain aspects of those conditions and to replace paragraph 10.3 and sections 28 and 29* and the Appendix to that Circular Letter. It refers only to special leave without pay to take up appointments with the EC or other international organisation of which Ireland is a member (referred to throughout the remainder of this Circular as "special leave"). Officers assigned to the EC under the national expert scheme are not on special leave and are not, therefore, covered by the provisions of this Circular.

* insofar as it deals with special leave to serve with an international organisation of which Ireland is a member; the provisions relating to special leave to serve overseas under the auspices of missionary or charitable organisations remain unchanged.

3. Save as otherwise provided for in this Circular, the general provisions relating to special leave in DPS Circular Letter 2/76 or subsequent amending instructions continue to apply.

General

4. Heads of Departments have delegated sanction to award special leave under the terms of this Circular. They are requested to facilitate applicants for special leave. The approval of this Department should be obtained before any application is refused on whatever grounds. Officers granted special leave should be made aware of and acknowledge in writing the provisions of this Circular.

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

6. Officers who, at the time of issue of these revised arrangements, are on special leave without pay to serve with the EC may opt either

(a) to continue to have the terms of section 28 of DPS Circular Letter 2/76 and paragraphs 2 and 3 of its Appendix applied to them until the end of their current period of special leave

or

(b) to have the terms of paragraphs 10, 15, 16 and 17 of this Circular apply to them from the date of this Circular.

7. Officers who, at the time of issue of these revised arrangements, are on special leave without pay to serve with an international organisation of which Ireland is a member (other than the EC) may opt either

(a) to continue to have the terms of paragraph 10.3 of DPS Circular Letter 2/76 applied to them until the end of their current period of special leave

or

(b) to have the terms of paragraphs 15, 16 and 17 of this Circular apply to them from the date of this Circular.

8. Options under paragraphs 6 and 7 above must be exercised, in the case of officers on special leave to serve with the EC, within ten years and, in the case of officers on special leave to serve with other international organisations of which Ireland is a member, within five years of the date of this Circular. Officers who have not notified their parent Department of their option within those time limits will be deemed to have opted for the provisions of DPS Circular Letter 2/76. The terms of the relevant paragraphs of this Circular and the corresponding paragraphs of DPS Circular Letter 2/76 and its Appendix may not apply simultaneously to the same officer.

9. All officers who are granted special leave with effect from a date after the date of issue of this Circular will have the terms of this Circular applied to them.

Length of special leave

10. Special leave to serve with the EC may be granted for a maximum of ten years or up to the minimum retiring age, whichever is the shorter. Save in exceptional circumstances, the total period of special leave should not exceed ten years, including extensions and regardless of the number of institutions served. Any exceptional arrangement would require the sanction of this Department.

11. Special leave to serve with an international organisation of which Ireland is a member (other than the EC) may be granted for a maximum of five years or up to the minimum retiring age, whichever is the shorter. Save in exceptional circumstances, the total period of special leave should not exceed five years, including extensions and regardless of the number of organisations served. Any exceptional arrangement would require the sanction of this Department.

Return to the Irish Civil Service

12. An officer on special leave who has not reached the minimum retiring age will be allowed return to the Civil Service on giving adequate notice (normally six months), provided:

s/he has not in the meantime become disqualified for service

s/he satisfies health requirements,

his/her appointment with the EC or other international organisation had not been terminated on grounds which would warrant dismissal from the Civil Service

and

a suitable vacancy exists.

An officer who has reached the minimum retiring age will not be allowed return to the Irish Civil Service.

13. Officers, who have opted to defer a promotion under the terms of paragraph 17 below, must give at least six months' notice of their intention to return to the Civil Service. They may return to the next fillable vacancy that occurs in the appropriate grade after the end of the period of deferral.

Further periods of special leave

14. An officer, who has returned to the Irish Civil Service following a period of special leave, should not be granted a further period of special leave under this Circular until s/he has served for a period equivalent to the duration of the initial period of special leave. This requirement may be waived in exceptional circumstances subject to the sanction of this Department.

Salary on return

15. An officer returning from special leave other than on promotion will be placed on the point s/he had reached on the salary scale of the grade in which s/he was serving immediately before the commencement of the special leave. However, the Head of Department may, at any time up to one year following the officer's return to duty, award the officer incremental progression and/or restore the officer's incremental date to the date which applied before the officer's release to serve with the EC or other international organisation, subject to the following conditions:-

(i) the Head of Department is satisfied that the value of the officers service has been enhanced because of the appointment with the EC or other international organisation to a degree meriting the concession;

(ii) the officer is not placed higher on the salary scale than s/he would have reached by incremental progression had the period of service with the EC or other international organisation been served in the home service.

16. Where an officer returns on promotion, his/her starting pay will be determined by reference to the point s/he had reached on the salary scale of the grade in which s/he was serving immediately before commencement of the special leave. However, if the Head of the Department to which the officer is returning on promotion considers that a salary adjustment under paragraph 15 above would have been warranted had the officer returned other than on promotion, the officer may be advanced, at any time up to one year after his/her return to duty, to the point on the higher scale which s/he would have reached had his/her starting pay on the higher scale been calculated by reference to the adjusted salary on the lower scale.

Promotion of officers on special leave

17 (a) Officers serving in permanent posts in the EC etc

(i) Officers on special leave continue to be eligible for promotion in their parent Department. If an internal promotion is offered to someone on such special leave, the Head of Department may give the officer the option of deferring the promotion and remaining on special leave for the remainder of the period of special leave subject to the deferral period not exceeding three years. The promotion would not become effective until the officer's return to the parent Department.

(ii) Officers on special leave may take part in interdepartmental promotion competitions if otherwise eligible. However, no refund of expenses incurred in competing will be granted.

(iii) Officers, who are placed on panels as a result of interdepartmental competitions, other than competitions for specific posts*, and who are subsequently offered an appointment from such panels, may opt to remain on special leave and defer the appointment for the remainder of their period of special leave subject to the deferral period not exceeding three years. The promotion would not become effective until the officer's return to the relevant Department.

* Any question as to whether a particular competition is a competition for specific posts for purposes of this paragraph should be referred to this Department for decision.

(b) Officers serving in temporary posts in the EC etc.

The position in relation to the promotion of officers who are serving in temporary posts while on special leave is as outlined for officers serving in permanent posts - see (a) (i)-(iii) above - with the exception that, where an option of deferral is given, officers in temporary posts may defer their appointment until the end of the period for which they are currently contracted. In exceptional circumstances, an officer may be allowed to renew his/her contract while continuing to defer the appointment subject to the total period of deferral not exceeding five years.

The option of deferral under subparagraphs (a) (i) and (iii) and (b) above may be exercised once only.

18. Officers who had not complied with the probation requirement (if any) in their current grade prior to going on special leave, must satisfactorily complete the outstanding balance of probationary service on their return to the Irish Civil Service before they can be considered eligible for promotion or be put forward to compete in interdepartmental competitions. This requirement is in addition to any other requirement of qualifying service for promotion.

19. Service with the EC may reckon towards qualifying service for promotion. Administrative Officers whose conditions of service provide for promotion to Assistant Principal after seven years' satisfactory service, may reckon service with the EC towards the seven year period (subject also to paragraph 18 above). Service with international organisations of which Ireland is a member, other than the EC, does not reckon towards qualifying service for promotion or for any other purpose.

20. In all cases officers must satisfy their parent Department that they are suitable for promotion and the Head of the Department should be in a position to make the usual certification as to the officers suitability for appointment to a higher grade before submitting a promotion proposal or sending the officer forward for a competition. Details of an officer's sick leave record while serving with the EC or other organisation may be sought in this context.

21. In the case of officers who were serving in an acting capacity at the time of going on special leave, the Head of the Department should be satisfied as to the officer's suitability in the higher grade before recommending him/her for substantive appointment.

Pensions

22. If an officer remains in the service of the EC

(a) provided s/he meets the minimum service requirements, the officer may receive an award under the Superannuation Acts on reaching the minimum retiring age, or on termination of special leave, if later. An earlier award may be made where retirement is due to ill-health. The award will be based on actual paid service in the Civil Service and on the pay appropriate, at the time the award becomes payable, to the point s/he had reached on the salary scale of the grade in which s/he was serving immediately before the commencement of special leave. [Attention is drawn to the fact that in the existing pension scheme for staff of the EC a minimum of ten year's service with the EC is required to qualify for pension, but that an officer with less than ten year's service with the EC who attains age 60 while in such service qualifies for a pension on the basis of service with the EC];

or alternatively

(b) subject to formal resignation from the Civil Service, the officer may opt to have a direct payment made to the EC in respect of his/her civil service superannuation entitlements. The service credit

received in the EC in respect of such payment will be determined by the authorities controlling the pension scheme for officials of the EC. If such an officer subsequently leaves the EC without entitlement to an EC pension, his/her Irish civil service superannuation entitlements may be restored. The period of service with the EC will not however be reckonable in the calculation of these entitlements; nor will their restoration imply a right to re-appointment in the Civil Service. Anyone who resigns voluntarily having submitted a valid resignation may reenter the Civil Service only by competing and being successful in an open competition conducted by the Civil Service Commission.

23. If an officer returns to the Civil Service having qualified for an EC pension or severance grant s/he may elect to either

(a) receive the EC pension or severance grant, in which case the period with the EC will not reckon for civil service superannuation. The service, if any, which such an officer may purchase under the Scheme for Purchase of Notional Service will be reduced by the length of the period of EC service in respect of which the pension or severance grant will be or has been paid. Prior and subsequent service in the Civil Service will be aggregated for superannuation purposes;

or

(b) request the EC to make a direct payment to the Minister for Finance in respect of the superannuation rights earned by service with the EC, in which case the officer will be treated for the purposes of civil service superannuation as if s/he had never left the Civil Service. The direct payment will be regarded as discharging liability for contributions under the Spouses' and Children's scheme during the period of service with the EC.

24. Contributions to the Spouses' and Children's scheme will not be refunded when an officer goes on special leave to serve with the EC. In the event of death while on special leave and where the officer had been a member of the Spouses' and Children's scheme, the civil service spouses' and children's benefits and death gratuity would be based on actual paid service in the Civil Service and on the pay appropriate, at the time the award becomes payable, to the point s/he had reached on the salary scale of the grade in which s/he was serving immediately before the commencement of special leave. Any charge for prior noncontributing service would be based on that pay. Where an officer does not return to the Civil Service and qualifies for a pension therefrom, contributions for prior non-contributory service and benefits under the Spouses' and Children's scheme will be based on the pay and service reckoned for the pension.

25. The above superannuation arrangements refer to established staff. Similar arrangements apply to non-established staff Details available on request.

Queries

26. Any queries about the implementation of this Circular should be referred, by Personnel Sections, to Ms Cloda Ryan, Careers and Appointments Section.

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J McGovern