

Department of Public Expenditure and Reform

# Frequently Asked Questions about the Public Service Sick Leave Scheme

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## General

### 1. Where are the details of the Public Service Sick Leave Scheme set out?

The details of the Public Service Sick Leave Scheme as it applies to civil servants are set out in:

- The Public Service Management (Sick Leave) Regulations 2014 (as amended by the Public Service Management (Sick Leave) (Amendment) Regulations 2015)
- Circular 12/2015 Arrangements for Paid Sick Leave

The Regulations set out the terms under which paid sick leave may be granted and the Circular sets out the administrative provisions for sick leave. The Circular must always be read in conjunction with the Regulations.

### 2. When did the new Sick Leave Scheme come into effect?

The Scheme came into effect on 31<sup>st</sup> March 2014. Any civil servant who goes out sick from the 31<sup>st</sup> March 2014 or on any day after that will be covered by the provisions of the new Sick Leave Scheme.

### 3. What if I have been on continuous sick leave since before the 31<sup>st</sup> March 2014?

If you are absent on sick leave on a continuous basis since before the 31<sup>st</sup> March 2014 you will continue to have access to the previous sick leave provisions for that sick leave absence (i.e. the provisions which were in place at the time you went out on sick leave). Once you return to work, the next period of sick leave will be calculated in accordance with the new sick leave arrangements.

### 4. What are the main provisions of the Sick Leave Scheme?

The Sick Leave Scheme provides for:

- Paid sick leave of up to 3 months (92 days) on full pay in a rolling one year period; followed by
- Paid sick leave of up to 3 months (91 days) on half pay in a rolling one year period,
- Subject to a maximum of 6 months (183 days) in any rolling four year period.
- Temporary Rehabilitation Remuneration which may be paid for up to a maximum period of 18 months (547 days) on the basis of a reasonable prospect of return to work by an individual (See: [Temporary Rehabilitation Remuneration](#) for more details).
- There is provision for extended paid sick leave where a civil servant has been critically ill or suffered a serious physical injury (See: [Critical Illness Protocol](#) for more details).

### 5. What's the difference between certified and self-certified sick leave?

Certified sick leave is certified by a doctor. Self-certified sick leave simply requires the civil servant to certify that s/he was sick on the day(s) in question. It was previously referred to as 'uncertified sick leave.'

### 6. What access do I have to self-certified sick leave?

Civil Servants have access to a maximum of 7 self-certified sick leave days over a rolling two year period. Medical certificates must be produced for absences which last for three or more days. Both self-certified and certified sick leave days are included on an individual's sick leave record for the purposes of the dual look back.

### 7. What is the dual look back?

The dual look back refers to the review of an individual's sick leave record to determine if they have access to paid sick leave (4-year look back), and if the answer is yes, then the rate of pay is determined (1 year look back).

#### 4-Year Look Back (Access)

- The civil servant's record is examined over 4 years to determine if s/he has had 183 days in 4 years counting back from the latest date of absence.
- If the individual has had less than 183 days there is access to paid sick leave.

#### 1-Year Look Back (Rate)

- The record is then examined counting back 1 year from the latest date of absence.
- If 92 days or less sick leave on full pay has been availed off, then there is access to full pay until such time as the 92 day on full pay limit has been reached (provided this does not mean the 183 day limit in 4 years is exceeded).

### 8. What types of leave constitute a break in service when calculating a civil servant's access to paid sick leave?

Any type of special leave that fulfils **all** of the following criteria will extend the look back period for the purposes of sick leave limits:

- unpaid;
- considered a break in service (i.e. does not count for superannuation purposes);
- reduces annual leave entitlement.

### 9. How are weekends counted when calculating sick leave?

When calculating an individual's sick leave record, sick leave that spans a weekend will include the weekend. Therefore an absence on a Friday followed by an absence on the Monday will be counted as four days as it includes Saturday and Sunday. Such an absence will require a medical certificate.

#### 10. What options will be open to civil servants volunteering to participate in donor transplant operations etc.?

Civil servants volunteering to involve themselves in organ donation or transplant procedures should avail of leave within the scope of the standard sick leave provisions.

#### 11. What if my illness or injury is work-related? (i.e. Occupational Injury)

Existing schemes for occupational illnesses or injuries (including workplace assault schemes) – injuries caused by work and illnesses contracted at work – remain unchanged. Time spent absent from work due to occupational injury or illness is treated separately to sick leave and is subject to the limits for occupational injuries or illnesses.

#### 12. How will civil servants with a disability be treated under the new Sick Leave Scheme?

Civil servants with a recognised disability will be treated neither more favourably nor less favourably than other civil servants, and will of course be able to access the standard sick leave provisions.

#### 13. Will disability be classified under the Critical Illness Provisions?

No, disability will not be classified under the Critical Illness Provisions. Under the new scheme there is no differentiation between different groups of workers, everyone is treated equally. In accordance with the *Disability Act 2005* management are required to make reasonable accommodation for people with a disability.

#### 14. How will the changes affect part-time workers and work-sharers?

The new arrangements will be applied to part-time staff and work-sharers in the same way as the previous sick leave arrangements. The key principle in calculating sick leave for work-sharers is that there should be parity between how their sick leave is calculated and how the sick leave of a full time civil servant is calculated. In order to do this a work sharer's working day should be converted into the equivalent of one day's sick leave for a full time civil servant.

Weekends are included in the calculation of a personal sick leave record, regardless of whether a civil servant is full time or a work-sharer. However days where a work-sharer is not scheduled to work are not counted for sick leave as these are addressed through the use of the formula.

#### Example 1

3 day week person (Monday - Wednesday) takes the week off sick i.e. is off for the 3 days they are rostered to be in work.

Sick leave is equal to their 3 days multiplied by Y  $3 \times 1.67 = 5.01$  sick days

### Example 2

A 50% attendance pattern person (mornings only) takes the week off sick i.e. they are off the 5 half days they are due in.

Sick leave is equal to their 5 half days (0.5 day x 5 = 2.5 days) multiplied by Y  $2.5 \times 2 = 5$  sick days.

### Example 3

3 day week person (Monday - Wednesday) takes 2 weeks in a row off sick - they are off for a total of 6 days they were rostered for work plus the intervening weekend.

Sick leave = 6 days multiplied by Y plus 2 days for Saturday and Sunday

$(6 \times Y) + 2 = \text{sick days} = (6 \times 1.67) + 2 = \text{sick days} = (10.02) + 2 = 12.02$  sick days

### Example 4

50% attendance pattern person (mornings only) takes 2 weeks in a row off sick - they are off for 10 mornings they were rostered for work plus the intervening weekend.

Sick leave = 10 half days (0.5 days) multiplied by Y plus 2 days for Saturday and Sunday.

$(5 \times Y) + 2 = \text{sick days} = (5 \times 2) + 2 = \text{sick days} = 10 + 2 = 12$  sick days

## 15. I am on probation. How much sick leave do I have access to?

During probation, access to sick leave, both self-certified and certified is pro-rated by reference to the length of the probationary period. After the probationary period is complete you have access to the normal sick leave limits.

### Example 1: Probationary period of 1 year

Access to sick leave will be the equivalent of one quarter of the overall limits, i.e.:

- Paid sick leave of up to 23 days on full pay in the one year period; followed by
- Paid sick leave of up to 23 days on half pay in the one year period,
- Subject to a maximum of 46 days in in the year period.

Access to self-certified sick leave may be granted up to a maximum of 3.5 days in the one year period.

### Example 2: Probationary period of 1 month

Access to sick leave will be the equivalent of 1/48 of the overall limits, i.e.:

- Paid sick leave of up to 2 days on full pay in the one month period; followed by
- Paid sick leave of up to 2 days on half pay in the one month period,
- Subject to a maximum of 4 days in the month period.

Access to self-certified sick leave may be granted up to a maximum of 0.5 days in the one month period.

## Critical Illness Protocol (CIP)

### 16. What are the Critical Illness Provisions (CIP)?

If a civil servant becomes seriously injured or critically ill, and has supporting medical evidence, the civil servant may be granted extended paid sick leave by their employer under the terms of the Critical Illness Protocol as follows:

- up to a maximum of 6 months (183 days) on full pay in a rolling 1 year period, followed by
- up to a maximum of 6 months (182 days) on half pay
- subject to a maximum of 1 year (365 days) in a rolling 4 year period.

### 17. How do I qualify for Critical Illness Provisions?

To qualify for Critical Illness provisions on medical grounds you must be unfit for work and you will ordinarily be under the care of a Consultant; in addition:

- Your case must be referred to the Chief Medical Officer (CMO) for medical advice;
- Treating Doctor's reports must be provided to the CMO;
- Your illness/injury will be assessed to see if it has at least one of the following characteristics:
  - Acute life threatening illness;
  - Chronic progressive illness, with well-established potential to reduce life expectancy;
  - Major physical trauma ordinarily requiring corrective acute operative surgical treatment;
  - In-patient hospital case of 2 consecutive weeks or greater<sup>1</sup>.

### 18. How do I apply for sick pay under the Critical Illness Protocol?

The procedures for applying for extended sick leave are:

- You will usually be absent from work due to illness;
- You, or someone acting on your behalf, can complete an application form for the critical illness provisions and submit it to the HR Manager (via PeoplePoint where appropriate);
- The HR Manager may also submit an application on your behalf where necessary;
- The HR Manager will refer the application to the CMO to determine if it meets the medical criteria set out in the Critical Illness Protocol;
- The HR Manager makes a decision following consideration of the medical advice and any other relevant circumstances of the case.

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<sup>1</sup> In the case of pregnancy-related or assisted pregnancy-related illness, the requirement for hospitalisation of two consecutive weeks will be reduced to two or more consecutive days of in-patient hospital / clinic care.

19. What impact will the Critical Illness Protocol have on 'ordinary' sick leave? (If I have used the extended paid sick leave under the Critical Illness Provisions, do I have further access to paid sick leave?)

Although different limits for full and half pay apply to the Critical Illness Protocol, any period spent absent under the CIP will be taken into account when calculating a civil servant's sick leave record.

However, within the 12 month period that a civil servant suffers with a critical illness/ injury they can continue to access the extended sick pay limits normally given for critical illness/injury only (i.e. 365 days), even where they are not critically ill, provided that:

- the civil servant has previously been absent because of a critical illness/injury; and
- the civil servant suffers from a non-critical illness/injury during the 12 months following the first day of the critical illness/injury absence.

20. Can I appeal against a decision on the Critical Illness Protocol?

Yes, you can appeal a decision to refuse you access to paid sick leave in accordance with the Critical Illness Protocol.

21. How do I appeal a decision not to award me sick pay under the Critical Illness Protocol?

Following the decision of the HR manager not to award CIP you can apply for an appeal setting out the grounds/basis for the appeal, indicating the reasons for the appeal and providing all information/documentation that may be relevant to the appeal. The process will then include:

- The appeal will be considered by the person who made the original decision;
- If the management discretion decision is appealed the existing Grievance Procedures are used;
- If the decision relating to medical advice is appealed it is referred to a specialist Occupational Physician (similar process as for appeals of ill-health retirement). This will ordinarily be a file only review.

## Temporary Rehabilitation Remuneration (TRR)

### 22. What is Temporary Rehabilitation Remuneration?

Temporary Rehabilitation Remuneration (TRR) is a reclassification of 'pension rate of pay' which may be paid following access to 183 days (of either half or full pay) in a rolling 4 year period.

TRR may be payable for a maximum of 18 months (in case of non-critical illness).

The actual length of time that an civil servant can be paid TRR depends on how much paid sick leave a civil servant has already had access to. A civil servant should not have more than 2 years of sick pay in any 4 year rolling period. This pay can be made up of a combination of full pay; half pay and TRR.

To qualify for TRR a civil servant must have:

- the relevant service requirements to be eligible to apply for retirement on grounds of ill health (currently 5 years' service); and
- there must be a realistic prospect of a return to work with an ability to give regular and effective service.

Periods spent on TRR are not reckonable for superannuation purposes.

### 23. What is the minimum amount of Temporary Rehabilitation Remuneration a civil servant can receive?

The amount of TRR a civil servant can receive will be dependent on the amount of pensionable service which s/he has.

For civil servants employed **pre-April 1995**, who do not make Class A PRSI contributions, the new scheme introduces a minimum payment for TRR which will be the equivalent of the personal social welfare rate.

For civil servants employed **post-April 1995** who are class A PRSI contributors, there is access to Illness Benefit from the Department of Social Protection in addition to the rate of TRR.

### 24. Can Temporary Rehabilitation Remuneration be paid for longer than 18 months?

In cases where a civil servant is on paid sick leave under the Critical Illness Provisions and no longer has any access to paid sick leave a further period of TRR of up to 2 years may be paid. In these circumstances, which are expected to be very rare, the extension of TRR will be for the purposes of rehabilitation from the illness that is covered by the Critical Illness Protocol and

- a further period of sick leave is required to rehabilitate from the critical illness/injury;
- an occupational health physician certifies that there is a reasonable prospect of the individual returning to work and giving regular and effective service; and

- the decision to award the additional period of temporary rehabilitation remuneration is reviewed every 6 months.

## Pregnancy-Related Sick Leave (PRSL)

### 25. What effect will the new provisions have on pregnancy-related sick leave?

If a pregnant civil servant is medically unfit for work due to a pregnancy related illness and has exhausted access to paid sick leave, she will continue to receive sick leave at half pay for the duration of her pregnancy-related illness. This is regardless of whether she has reached the maximum limit for half pay due to prior sick leave. This period of extended half pay will not count towards future access to sick leave.

### 26. Do I have access to extended sick pay under the Critical Illness Provisions if I suffer from a pregnancy-related illness?

Serious pregnancy-related illnesses which meet the criteria for inclusion under the Critical Illness Protocol will be treated under that provision.

There is a specific provision in the Critical Illness Protocol which provides that if you have a pregnancy-related or assisted pregnancy-related illness, the requirement for hospitalisation of two consecutive weeks will be reduced to two or more consecutive days of in-patient hospital/clinic care while you remain unfit for work.

### 27. What happens if I get sick after I am pregnant and I have exhausted my sick leave because of a pregnancy related illness?

Following the amendment to the Sick Leave Regulations prior PRSL will be treated in the following ways:

PRSL occurring before the introduction of the Public Service Sick Leave Scheme:

All PRSL that occurred before the introduction of the new Public Service Sick Leave Scheme will be discounted for the purpose of calculating access to paid sick leave under the Scheme.

PRSL occurring after the introduction of the Public Service Sick Leave Scheme:

A woman who has exhausted her access to paid sick leave due to pregnancy-related sick leave in the previous 4 years may have access to additional non-pregnancy-related sick leave at the half rate of pay. The number of additional days allowed:

- Will be the equivalent number of PRSL days taken in the 4 years;
- Must not exceed normal sick leave limits (e.g. 183 days) for non-pregnancy-related sick leave (when counted with other non-pregnancy-related sick leave in the previous 4 years).