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To all Personnel Officers

Circular 27/2003 – Annual Leave

Background

1. Following a query raised by the Comptroller and Auditor General concerning payments for untaken annual leave at retirement it has been decided to issue a letter clarifying the carry-over of annual under the Organisation of Working Time Act, 1997 (OWTA) and the annual leave Circular 27/2003.
2. The OWTA and circular 27/2003 apply to all civil servants.
3. Under the OWTA (section 20) an employer can determine when annual leave should be taken by their staff having regard to work requirements and taking into account:
 - the need for the employee to reconcile work and any family responsibilities they have, and
 - the opportunities for rest and recreation available to the employee.
4. Where possible leave should be taken in the year in which it is accrued. The carry-over of annual leave should be avoided. The carry-over of annual leave is a concession to address busy and exceptional work periods. The carry-over of annual leave should be closely monitored by Departments and Offices to ensure that it is being used appropriately and that large amounts of annual leave are not being accumulated by officers.

Organisation of Working Time Act, 1997 (OWTA)

5. The OWTA provides certain minimum annual leave for all employees including civil servants. For full-time employees this is 20 days per year (pro-rata for work-sharers). Annual leave provided for in the OWTA must be taken in the year in which it is accrued or with the employee's consent, within six months of the start of the next leave year. Departments and Offices should ensure that at a minimum annual leave provided under the OWTA is taken in the year in which it accrued.

Circular 27/2003 – Annual Leave

6. Most civil service grades receive annual leave in excess of that provided for in the OWTA. The carry-over arrangements for this leave are set out in paragraphs 13, 14 and 15 of circular 27/2003. As a general guide, this means that annual leave in excess of the statutory minimum may be carried forward for two leave years only and that the carry forward at the end of the third year is limited to the difference between the officer's normal annual allowance and the statutory minimum entitlement.

7. **Any untaken annual leave over and above this difference will be forfeit.**

8. Requests for the carry-over of annual leave should be made by the officer in sufficient time for the leave to be taken within the leave year if the request to carry-over the annual leave is refused.

Payment for Untaken Annual Leave

9. Under the Organisation of Working Time Act 1997, it is illegal to pay an allowance in lieu of the minimum statutory annual leave entitlement of an officer unless the employment relationship is terminated, in which case the officer is entitled to payment for untaken annual leave accrued at the date of cessation of employment. In this connection, cessation of employment means resignation, retirement or the death of the officer concerned only. Payment in these circumstances can only be made in respect of leave accrued in accordance with the terms of Circular 27/2003 and **cannot** be made in respect of leave forfeited under that circular.

10. While the OWTA allows for the payment of untaken leave at the cessation of employment, Departments and Offices should endeavour to ensure that all untaken leave is taken before retirement or resignation including annual leave accrued under the carry-over rules and to facilitate this, an officer may be allowed to complete a period of annual leave immediately prior to retirement.

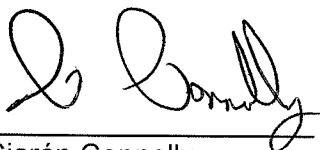
Carry-over of Annual Leave and periods of Sick Leave

11. Where an officer has been on a period of sick leave such sick leave may affect the amount of annual leave that can be carried forward under circular 27/2203 (para. 26 to 29).

- Annual leave is not accrued while an officer is on unpaid sick leave or pension rate of pay (para. 29).
- Officers out sick with an occupational injury/disease are entitled to public holidays that fall within the first 52 weeks of their condition. Officers not suffering from an occupation injury/disease are entitled to public holidays that fall within 26 weeks of their illness.
- Under the OTWA sick days do not count towards annual leave provided under the OWTA. Therefore, periods of sick leave may reduce an officer's entitlement to statutory leave.
- Where an officer is on sick leave at the end of annual leave year such officer is only allowed to carry forward a maximum of 10 days non-statutory annual leave.

12. Queries about this letter or circular 27/2003 should be emailed to Travel.Policy@finance.gov.ie;

Yours sincerely



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