

Reference No: E109/237/74; **Date:** 01/12/99

Circular 33/1999:- Amendment to provisions on the clearance of candidates for promotion or establishment; sick absences and health considerations

A Dhuine Uasail

1. Following the introduction of the Employment Equality Act, 1998, it has been decided to review the provisions for the clearance, by reference to sick absences and health considerations, of candidates for promotion. I am directed by the Minister for Finance to state that, following this review, he has decided to amend the provisions.

2. Circular 34/76 specifies that, in assessing the sick absence record of a candidate, limits are to be applied by departments in considering his or her suitability for establishment or promotion. The limits are used in the context of determining the compatibility of sick absences with the requirements of regular and effective service. The limits to be applied are not more than 56 days of sick leave and (having regard to the pattern of absence) not more than 25 sick absences in 4 years or pro rata where the service of the officer is less than 4 years.

In applying these limits the following factors should be borne in mind:-

- (a) absences for minor curative or "repair" operations need not be counted;
- (b) non-recurring illnesses may be ignored;
- (c) regard should be had to the pattern of absence, e.g. if most of the absences have been in earlier part of the four year period and there has been a very significant improvement in the last two years the candidate may be given the benefit of the doubt;

or

- (d) if most of the absences were due to a health problem which the Chief Medical Officer accepts has been rectified and if, on ignoring such absences, the sick leave record is within limit, the candidate may be accepted as suitable.

3. The Department of Finance is aware that there is a small number of **exceptional** cases where candidates for promotion may not have certain sick leave absences discounted under existing sick leave provisions. In such cases, (for example an isolated episode of illness in the previous four years such as an uncomplicated heart attack or isolated diabetic complication), whilst the individual may require ongoing medical treatment or monitoring arising from the illness, the Chief Medical Officer and the parent department of the officer may be of the opinion that the illness will not detract from the suitability of the candidate from a health point of view and his or her ability to provide regular and effective service in the future.

4. Therefore, to allow for exceptional cases of the kind outlined above provisions on the clearance of candidates for promotion or establishment by reference to sick absences and health considerations will be modified by the addition of the following:

In cases where a candidate for promotion or establishment has had in excess of 56 days sick leave and (having regard to the pattern of absence) not more than 25 sick absences in 4 years (or pro rata where the service of the officer is less than 4 years), a substantial proportion (as determined by the Personnel Officer) of which has been due to an isolated episode of illness, departments may refer the case to the Chief Medical Officer for review. If the CMO is of the view, in the light of the medical evidence on the isolated episode of illness, that the medical condition which gave

rise to it is unlikely to impinge on the suitability of the candidate from a health point of view, it would be open to the department to consider, in the light of the amount and pattern of sick absences of the candidate, whether the absence associated with the single episode of illness could be ignored in determining suitability for promotion.

In all other cases the existing provisions in relation to sick absences, including those in relation to sick leave during and after pregnancy, will continue to apply.

5. Departments should not as a matter of course refer all cases where an officer has sick absences in excess of the limits provided under Circular 34/76 to the Chief Medical Officer. The role of the Chief Medical Officer is purely advisory and files should not be referred to him unless a question involving expert medical opinion arises in cases. **In many cases departments should be able to apply the limits without reference to the Chief Medical Officer.** The decision as to whether sick absences are discounted, in accordance with the terms of Circular 34/76 and this Circular, is a matter for each Department.

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J. McGovern
Assistant Secretary