

<b>Lead topic: Civil Service Human Resources</b>	<b>Sub-topic: HR policy - Sick Leave</b>	<b>Contact: Louise McGirr Ext: 4266 / Mairead Emerson Ext: 4275</b>
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## FAST FACTS

- **Background to the Scheme:** The new Public Service Sick Leave Scheme commenced for a majority of the Public Service on 31st March 2014 and for the Education Sector on 1st September 2014. The rationale for the Scheme was the need to reduce the cost and incidence of sick leave for the Public Service, by substantially reducing the period of time for which paid sick leave is available.
- **The main provisions of the Scheme** are that access to paid Sick Leave was halved, Temporary Rehabilitation Remuneration (TRR) replaced Pension Rate of Pay and a Critical Illness Protocol was introduced with provisions for staff with serious illnesses or injury who can benefit from extended paid sick leave
- **The Impact of the Public Service Sick Leave Scheme – 2014 Statistics:** The 2014 sick leave statistics are the first quantitative indication of the impact of the new Scheme. Published on 6 July 2015, the statistics cover the full 2014 calendar year (January- December 2014). Although the statistics do not reflect a full year under the new Scheme, they show that the new arrangements have already had a significant impact across the Public Service as a whole.

***The headline findings are:***

- The rate of sick leave across the Public Service is now 4.0%; a reduction of 0.3% from 2013
  - The number of days lost to sick leave per Full Time Equivalent (FTE) is 8.7 days; a reduction in average days lost per FTE across all sectors of 0.8 days (-8.4%) from 2013
  - The cost of sick leave across the Public Service is estimated at €319.3 million for 2014; a decrease of almost 14% (estimated to be €51.5 million) since 2013
  - On account of the reduction in sick leave, there were an additional 260,000 days approximately worked by public servants in 2014 in comparison to 2013.
- **2014 Statistics data available at:**
    - Tab – 2014 Public Service Sick Leave Statistics and Trends 2013-2014
    - Tab – 2014 Civil Service Absenteeism Rates Graph
  - **Pregnancy Related Sick Leave (amended September 2015)**  
The Sick Leave Regulations were amended in September 2015 to reflect the Minister's decision on the treatment of pregnancy-related sick leave (PRSL) by the Public Service Management (Sick Leave) (Amendment) Regulations 2015 (S.I. 384 of 2015) and are effective from the introduction of the Public Service Sick Leave Scheme (for the generality of the Public Service on 31 March 2014 and for the Education Sector on 1 September 2014).

The Amended Regulations provide for:

1. *Transitional Arrangement:* All PRSL that occurred before the introduction of the new

Public Service Sick Leave Scheme is discounted for the purpose of calculating access to paid sick leave under the current Scheme.

2. *Ongoing Arrangement*: A woman who has exhausted her access to paid sick leave due to PRSL 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 days taken on PRSL 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).

**The rationale** for the introduction of the transitional arrangement was to take account of the sectoral arrangements which had been in place previously in relation to PRSL (e.g. in the Education Sector all PRSL was discounted). The ongoing arrangement provides for additional access to paid sick leave for pregnancy-related illness in compliance with the European Court of Justice ruling in *North Western Health Board v McKenna* (C-191/03).

The provisions that no woman shall be paid less than half-pay while absent for a PRSL was not affected by the amendment to the Regulation

- **Review of the Public Service Sick Leave Scheme**: In line with the commitment made by the Minister of Public Expenditure and Reform, a review of the Public Service Sick Leave Scheme is currently underway.

The review the Sick Leave Scheme seeks to evaluate the effectiveness of the Scheme and address any operational difficulties and issues which may have arisen following its introduction. A large number of stakeholders across the public service are being consulted including civil service departments/offices, sectoral management, occupational health physicians, and staff representatives.

The review will culminate in a Report in Q1 2016 which will include recommendations on potential changes to be made to the Scheme.

- **Judicial Review taken by the Garda Representative Associations**
  1. The GRA took a Judicial Review case against the Minister to strike out the new Regulations. This was successfully challenged in the High Court and the Minister achieved comprehensive decisions on the substantive issues of the case. **Costs** were, however, awarded to the GRA.
  2. We have appealed the decision on costs and the GRA have appealed the substantive issue as well as costs for the interlocutory injunction. The appeal was heard by the Court of Appeal on 9<sup>th</sup> June 2015. As we are awaiting the judgment from the case it would be inappropriate for any further statement to be made.

**Q&A****Q: How much costs were awarded to the GRA?**

**A:** Costs for the case are reserved until the Appeal is complete. The costs have not yet been submitted but provisional funding of €200,000 has been allocated.

**Q: What happens if a person had a critical illness prior to the new Scheme?**

**A:** Additional protection is provided in the Scheme for individuals experiencing critical illnesses or serious injury by means of a Critical Illness Protocol (CIP) which provides the basis for access to extended sick leave. These provisions allow access to extended sick leave of 6 months on full pay in a rolling 1 year period, followed by 6 months on half pay subject to a maximum of 12 months' paid sick leave in a rolling 4 year period.

It is not possible to determine definitively whether illnesses prior to the commencement of the new scheme was a critical illness as it was not assessed under the CIP criteria at the time of the illness. A transitional arrangement was recently introduced to address this issue. Sectors have been advised that the discretionary provisions can be used to award extended sick pay in circumstances where someone had a serious illness or injury in the previous four years.

The new sick leave arrangements for the public service strike the appropriate balance between reducing the unsustainable costs of sick leave in the public service and safeguarding the interests of public servants who experience serious illness or injury.

**Q: How are Occupational Illnesses and Injuries treated in the Public Service?**

**A:** The Public Service Sick Leave Scheme does not prejudice occupational injury and illness schemes in place across the public service (Regulation 4 of the Public Service Management (Sick Leave) Regulations 2014). Consequently, leave taken due to an occupational injury/illness sustained by public servants covered by such schemes does not affect access to paid sick leave.

*File Ref and link to page number at index*