



the dpsa

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TO HEADS OF ALL DEPARTMENTS AND PROVINCIAL ADMINISTRATIONS

For attention: Heads of Corporate Services/Human Resources and Chief Financial Officers

IMPLEMENTATION OF THE POLICY AND PROCEDURE ON INCAPACITY LEAVE AND ILL-HEALTH RETIREMENT (HEREAFTER REFERRED TO AS PILIR) AND AMENDMENT OF THE DETERMINATION ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE

In terms of the current collective agreements on leave, it is incumbent on the employer to investigate applications for temporary incapacity leave. Similarly, the employer must in terms of the provisions of the Public Service Act, 1994, read with the Public Service Regulations, investigate cases of possible ill-health retirements. However, the management of sick leave and/or ill-health retirement in the Public Service received specific attention in various studies such as the Public Service Commission study as depicted in its report, *The Sick Leave Trends In The Public Service* of March 2002, the study conducted into the disability experience of the Government Employees Pension Fund and the management of sick leave in the Public Service in 2002 and the *Report Of The Auditor-General On A Performance Audit Of The Management Of Sick Leave benefits At Certain National And Provincial Departments*, which was recently tabled in Parliament. It is clear from these studies that—

1. the Public Service, as any other employer in the country, experiences absenteeism from the workplace as a major problem;

- 1.2. the abuse and poor management of sick leave have serious financial implications and a detrimental effect on service delivery;
- 1.3. the reasons for the poor management of sick leave and ill-health retirements could be attributed to a number of reasons, which include *inter alia*-
 - 1.3.1. incapacity leave and ill-health retirements are not managed consistently, since a uniform and clear policy on the management of incapacity leave and ill-health retirements is lacking; and
 - 1.3.2. incapacity is rarely if ever properly investigated and managed, because of departments' lack of medical expertise and skills to investigate incapacity and ill-health retirement;
 - 1.3.3. the usage of ill-health benefits and sick and incapacity leave are exceptionally high. Particular trends were also detected in the usage of sick leave, i.e. a high percentage of absenteeism;
 - 1.3.4. the Public Service as employer could, with the correct and scientific approach, add value to employees lives, where an employee is temporarily incapacitated and could return to work after s/he was afforded the appropriate period of temporary incapacity leave to recuperate.
2. To assist Departments/Provincial Administrations in the management of incapacity leave and ill-health retirements, the dpsa has developed the *Policy and Procedure on Incapacity leave and Ill-health Retirement (hereafter referred to as PILIR)*. A pilot project was launched to test the feasibility of *PILIR* and to redefine it in line with the Public Service's needs. With due consideration to the above and following the successful outcomes of the *PILIR* pilot project in the Department of Correctional Services, the South African Police Service and the Free State Province, the Minister for Public Service and Administration, on the approval of Cabinet, determined that *PILIR* be implemented in the rest of the Public Service. A copy of *PILIR* is attached.
3. The key features of *PILIR* are the following:
 - 3.1. *PILIR* aims to set up structures and processes, which will ensure-
 - 3.1.1. intervention and management of incapacity leave in the workplace to accommodate temporary or permanently incapacitated employees; and
 - 3.1.2. that rehabilitation, re-skilling, re-alignment and retirement, where applicable, of temporarily or permanently incapacitated employees are facilitated, where appropriate.
 - 3.2. *PILIR* therefore seeks to adopt a holistic and scientific approach to health risk management and prevent the abuse of sick leave by managing incapacity leave as far as possible.
 - 3.3. It identifies and defines the role-players and their responsibilities. To this end it provides for the appointment of a Health Risk Manager. The Health Risk Manager will assess and advise the employer on employees' applications for

incapacity leave and ill-health retirements. The purpose of the assessment is to determine, *inter alia*, the validity of an application, the appropriate duration of incapacity leave and the need for ongoing incapacity leave.

- 3.4. Mechanisms and processes are created to manage temporary and permanent incapacity leave. Temporary incapacity leave is for this purpose divided into two categories, i.e.-
 - 3.4.1. a short period of incapacity leave, if the employee is absent for not longer than 29 working days per occasion, after the normal sick leave credit has been exhausted, in a sick leave cycle; and
 - 3.4.2. a long period of incapacity leave, if the employee is absent for 30 working days or more per occasion, after the normal sick leave credit has been exhausted, in a sick leave cycle.
- 3.5. An application for a long period of incapacity leave will be subject to a two-pronged assessment process, i.e. a primary assessment process, which will deal with the employee's application for temporary incapacity leave and a secondary assessment, which may involve further medical examinations. The latter assessment process will be relevant where further investigations are necessary to decide on e.g. the adaptation of the employee's work environment, ongoing incapacity leave, etc.
- 3.6. The transition from temporary incapacity leave into permanent incapacity leave is clarified and facilitated.
- 3.7. A mechanism is introduced whereby cases for possible ill-health retirement are assessed/investigated.
- 3.8. Processes and procedures in terms of *PILIR* are subject to specific time frames, which must be strictly adhered to, in order to ensure compliance with prevailing collective agreements.
- 3.9. Specific application forms for the respective categories of temporary incapacity leave and ill-health retirement are prescribed. The application forms for temporary incapacity leave have been designed in such a manner that it facilitates speedy decision-making, which is essential to comply with the time frames set in the current collective agreements. Examples of *pro forma* letters are included to assist with communication with employees on the outcome of their applications.
- 3.10. Specific provisions are included to deal with issues related to confidentiality. All documents generated in terms of *PILIR* must be classified and treated as confidential and not as 'personnel confidential'. The prescripts regarding classified documents, as contained in the *Minimum Information Security Standards*, must be strictly adhered to. It is also mandatory that employees who will handle documents related to *PILIR*, sign a 'Pledge of Confidentiality'.
4. Further to create synergy between *PILIR* and the current leave policy, the Minister for Public Service and Administration determined that-

- 4.1. the reference to the *Directive on Leave for Absence in the Public Service* be aligned with the provisions contained in sec. 3(3)(c) of the Public Service Act, 1994, as amended, and be renamed the *Determination on Leave of Absence in the Public Service*; and
- 4.2. paragraphs 12 to 15 of the *Determination on Leave of Absence in the Public Service* (hereafter referred to as the *Leave Determination*) are amended as indicated in the attached amended *Leave Determination*.
5. The amendments contemplated in paragraph 4, above, shall become effective from 1 January 2006, with the exception of the 8-week rule, which is already effective from 1 April 2005.
6. The key features of the amendments to the *Leave Determination* are the following:
 - 6.1. **Normal sick leave**
 - 6.1.1. The determination on the implementation of the so-called 8-week rule, which was issued earlier this year by means of a circular, is incorporated.
 - 6.1.2. The roles and responsibilities of the employee, supervisor/manager and Head of Department are supplemented and clarified to cover obvious gaps in the current *Leave Determination* and attempting to ensure that-
 - (a) employees complete and submit their application forms, a practice which is seriously lacking;
 - (b) supervisors/managers fulfill their responsibility in the management of sick and incapacity leave; and
 - (c) the employer discharges of its responsibility in this regard.
 - 6.1.3. Sanctions have been introduced to address the undesired behaviour on the part of either the employee or the supervisor/manager, or both, in respect of failure to submit an application form timeously or the supervisor's failure to take prompt action to address and manage this undesired behaviour.
 - 6.1.4. Where appropriate, specific time frames have been introduced to avoid the late submission of application forms and to ensure prompt action on the part of the employer.
 - 6.2. **Incapacity Leave**
 - 6.2.1. The features referred to in paragraphs 6.1.2 and 6.1.3, above, have been repeated in the case of temporary incapacity leave, since they are equally important and relevant to this type of leave.
 - 6.2.2. A fair procedure is created in terms of which the employee is afforded the opportunity to state his/her case and to provide additional and written information in support of his/her application upfront.

- 6.2.3. The type of medical proof, information and motivation required from the employee to consider his/her application for temporary incapacity leave is clearly defined.
- 6.2.4. Provision is also made that the employer may request the employee to provide his/her consent that medical information and records be disclosed to the employer/Health Risk Manager or to subject him/herself for a further medical examination.
- 6.2.5. Specific provisions are included to clearly indicate upfront the possible outcomes of an application for temporary incapacity leave and the consequences attached to these outcomes. Therefore an employee will be aware of the possible outcomes and consequences.
- 6.2.6. The transition from temporary to permanent incapacity leave is clarified.

6.3. Acceptance Of Medical Certificates

- 6.3.1. The sick certificates from practitioners or persons who may diagnose and treat patients and who are registered with the following professional councils will be recognized for purposes of normal sick leave:
 - 6.3.1.1. The Health Professions Council of South Africa.
 - 6.3.1.2. The Allied Health Professions Council of South Africa.
 - 6.3.1.3. The South African Nursing Council.
- 6.3.2. However, when an employee exceeds the normal sick leave entitlement of 36 working days in a sick leave cycle, it could be assumed that the employee is very ill and must have sought medical attention. Therefore, for purposes of temporary incapacity leave the employer shall only accept sick certificates issued and signed by a practitioner registered with the Health Professions Council of South Africa and who may diagnose and treat patients.

7. Z-Forms

7.1. The Leave Application Form: Z 1

- 7.1.1. With due consideration to the above-mentioned policy changes and the fact that an employee has to complete a different application for purposes of temporary incapacity leave, the Minister for Public Service and Administration determined that the new leave application form (i.e. the Z1(a)) be introduced for all the other types of leave provided for in the *Leave Determination*. However, the new Z1(a) form will be implemented on different dates in Departments and Provincial Administrations. These dates will be announced as and when necessary by means of a directive. The new Z1(a) form will be published in the Government Gazette.

7.2. The Medical Report on Officer/Employee in the Public Service – Z 29

- 7.2.1. Since specific forms for purposes of ill-health retirements are prescribed in terms of *PILIR*, the Minister for Public Service and Administration issued a directive that form Z29 should no longer be accepted for purposes of ill-health retirements. However, in light of the different implementation dates in Departments and Provincial Administrations, the withdrawal of form Z29 for purposes of ill-health retirement shall be effected from different dates. The latter will as in the case of the leave application form be announced as and when necessary by means of a directive.

8. Application to the Senior Management Service

- 8.1. Since the determination regarding *inter alia* the sick and incapacity leave provisions for the Senior Management Service is presently contained in Chapter 3 of the *SMS Handbook*, the Minister for Public Service and Administration determined that-
 - 8.1.1. the amended paragraphs 12 to 15 of the *Leave Determination* be applied *mutatis mutandis* to the SMS; and
 - 8.1.2. *PILIR* be applied *mutatis mutandis* to the SMS.

9. Implementation of PILIR

- 9.1. The Minister for Public Service and Administration, on the approval of the Cabinet, approved-
 - 9.1.1. the implementation strategy for *PILIR*; and
 - 9.1.2. implementation within expedited time frames.
- 9.2. In terms of the approved implementation strategy-
 - 9.2.1. the dpsa shall be centrally responsible for managing and sustaining the effective implementation and application of *PILIR*. With due consideration to the complexities of the process and volume of work involved, dedicated human resources will be assigned to this project. To this end, the dpsa will assign a ‘champion’ to drive and manage the above processes. Please refer to the above-mentioned contact details;
 - 9.2.2. and with due consideration to the approved expedited implementation plan, *PILIR* will be implemented in an incremental manner at different target dates. Please refer to the table at Annexure A for a summary of the envisaged target implementation dates;
 - 9.2.3. a collective approach will be followed with the appointment of the Health Risk Managers, in that National Departments and Provincial Administrations will be grouped together to enhance the Public Service’s collective purchasing power;

- 9.2.4. the appointment of Health Risk Managers shall be a joint venture between the dpsa and National Treasury: Pensions Administration. Further details on the tender process, where relevant, will be communicated in due course;
- 9.2.5. the funding arrangements will be a joint process between Departments, the GEPF and National Treasury. A further communication on this matter will follow in due course. The financial implications for each Department have been calculated based upon available data and will also be communicated as soon as possible to each Department. Since the current MTEF processes have recently closed, the necessary funding will have to have to be defrayed from savings and where necessary Departments will have to request additional funds through the 2006 budget adjustment estimate process as unforeseeable and unavoidable expenditure; and
- 9.2.6. the following pre-requisites are/will be implemented to pave the way for implementation:
 - 9.2.6.1. Departments/Provincial Administrations will be assisted to **prepare for implementation**, which will include in addition to this circular, briefing sessions and/or workshops in Departments/ Provincial Administrations. The purpose hereof would be to inform the management of Departments/ Provincial Administrations of this intervention, the identification of areas that warrant immediate attention such as delegations, etc. This Department will contact your Department or Provincial Administrations to set up such meetings.
 - 9.2.6.2. **Training** during the *PILIR* pilot project proved to be key in the effective implementation and application of the policy. Therefore, the implementation process will commence with training, which will be conducted by the Health Risk Managers. All training material shall be reviewed and signed off by the **dpsa** prior to being presented to Departments/Provincial Administrations. The **dpsa** also reserves the right to attend training sessions for the duration of the implementation period for purposes of quality control. Training will be targeted at senior and line management, human resource practitioners/units, the EAP practitioners/units and labour relations practitioners/units.
 - 9.2.6.3. It transpired from the above-mentioned studies and pilot project that the Senior Management Service plays a key role in the management of sick and incapacity leave. The Minister for Public Service and Administration therefore in terms of Public Service Regulations 4/III/B. 3 and B.4, issued a directive that the management of sick and incapacity leave be included in the **performance agreements of the Heads of Departments and the Senior Management Service**. In terms of the directives contained in Chapter 4 of the SMS Handbook, the criteria for

contracting and assessment in respect of the performance agreements consist of two components, i.e. the Key Result Areas (KRA's) and the Core Management Criteria (CMC's). Eleven CMC's are identified for the SMS, of which the following three CMC's are as a minimum mandatory for SMS members with management responsibilities:

- i) Financial management
- ii) People management and empowerment
- iii) Client orientation and customer focus

Since the KRA's are in the normal course of events primarily focused on the line function of the Senior Manager, the Minister for Public Service and Administration directed that the management of sick leave and incapacity leave be included in the performance agreements of the Senior Management Service and Heads of Department, coupled with the 'CMC' on 'People Management and Empowerment'. In this regard the manager must-


- acquaint him/herself of the content of the *Leave Determination* and *PILIR*;
- ensure that the provisions contained in the *Leave Determination* and *PILIR* are enforced;
- ensure that his/her staff complies with the provisions on sick and incapacity leave as contained in the *Leave Determination* and *PILIR*;
- manage and discipline employees, where necessary, who fail to comply with these provisions;
- ensure that the time frames set for the employer in the above-mentioned policies as well as the Service level Agreements with the health Risk Managers are strictly adhered to; and
- enforce decisions taken related to an employee's sick or incapacity leave application.

9.2.6.4. Each Department must **nominate a champion** who must be assigned with the responsibility to manage and drive *PILIR* in that Department. Taking into account the importance, high profile and expectations of this project, the champion must be a member of the Senior Management Service. An alternate person, for the champion must also be available in the event of the absence of the champion. The champion must-

- (a) act as the liaison point for the dpsa, National Treasury: Pensions Administration and the Health Risk Manager on *PILIR* related issues;
- (b) oversee, monitor and advise the implementation and application of *PILIR* and assist in resolving implementation problems in the Department;
- (c) oversee and facilitate the sign off of the Health Risk Manager's invoices and disbursement of the signed invoices to the National Treasury: Pensions Administration for payment; and
- (d) chair Steering Committee Meetings, which will oversee the implementation and application of *PILIR* in the Department or Provincial Administration; and
- (e) regularly present reports and/or feedback to the Senior Management Service on the implementation and application of *PILIR*, and the management of sick and incapacity leave in general in that Department.

9.2.6.5. As indicated earlier it is intended that the **dpsa** will have meetings/workshops with Departments/ Provincial Administrations at different levels. It is however, important to also communicate with employees on this intervention. To this end the **dpsa** envisages to develop and print brochures and posters to reach employees at grass root level. The latter will be provided as and when necessary.

- 10. As stated above, the **dpsa**, in collaboration with the National Treasury: Pensions Administration shall be centrally responsible for the appointment of the Health Risk Managers. The **dpsa** shall therefore be responsible for the tender processes and procedures and conclusion of Service Level Agreements, etc. The **dpsa** will introduce the Health Risk Manager appointed for your Department/Provincial Administration as soon as they have been appointed.
- 11 If you have any questions related to the above, please do not hesitate to contact the **dpsa**. Please refer to the above-mentioned contact details.

For 
 DIRECTOR-GENERAL
 DATE: 5/12/2005

ANNEXURE A

Target Group of Departments/Provincial Administrations	Estimated Target Date
Current pilot sites	
Department of Correctional Services	April 2006
Free State Provincial Administration	April 2006
National departments	
Group 1	April 2006
Water Affairs and Forestry	
Housing	
Labour	
Land Affairs	
Public Works	
Science and Technology	
Health	
National Treasury	
Office of Public Service Commission	
Public Service and Administration	
SAMDI	
The Presidency	
Provincial and Local Government	
Public Enterprises	
Independent Complaint Commission	
Sport and Recreation	
Group 2	June 2006
Agriculture	
Arts & Culture	
Communications	
Education	
Environmental Affairs and Tourism	
Foreign Affairs	
Government Communications & Information Systems	
Home Affairs	
Justice	
Mineral and Energy Affairs	
National Prosecuting Authority	
Social Development	
Statistics SA	
Trade and Industry	
Transport	
Western Cape Provincial Administration	April 2006
Northern Cape Provincial Administration	May 2006
Limpopo Provincial Administration	May 2006
Eastern Cape Provincial Administration	June 2006
North West Provincial Administration	July 2006
Mpumalanga Provincial Administration	July 2006
Kwazulu Natal Provincial Administration	August 2006
Gauteng Provincial Administration	August 2006