



Department of Public Service and Administration

✉ X916 PRETORIA 0001

✉ X9148 CAPE TOWN 8000

☎ (012) 314-7911 • FAX (012) 323-2386

☎ (021) 462-2238 • FAX (021) 462-2299

①•

☎•

REF•

Ms N O Mawela

314 7449


E1/2/2/P

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TO HEADS OF ALL DEPARTMENTS/PROVINCIAL ADMINISTRATIONS

IMPLEMENTATION OF THE NEW LEAVE DISPENSATION FOR THE PUBLIC SERVICE

1. As you are aware, agreement has been reached on inter alia a new leave dispensation for the Public Service. A copy of PSCBC Resolution 7 of 2000 is attached for ease of reference.
2. In order to give effect to clause 7 of PSCBC Resolution 7 of 2000, the Minister for the Public Service and Administration has -
 - 2.1 made a determination that the leave dispensation as contained in clause 7 of PSCBC Resolution 7 of 2000 replaces the leave dispensation as contained in Part II of PSCBC Resolution 3 of 1999, with effect from 1 July 2000;
 - 2.2 issued a directive, containing uniform norms and standards on the application and implementation of clause 7 of PSCBC Resolution 7 of 2000, as contained in the attached document "*Leave Of Absence In The Public Service*";
 - 2.3 approved the transitional arrangements as contained in the attached document "*Transitional Arrangements To Facilitate The Transition From The Previous To The New Leave Dispensation*".


DIRECTOR-GENERAL



A DIRECTIVE ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE



ISSUED BY THE MINISTER FOR PUBLIC SERVICE AND ADMINISTRATION

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1. SCOPE

- 1.1. Except for explicit exclusions by the Basic Conditions of Employment Act, 1997, this directive is applicable to all those that are employed either on full-time, part-time or occasional basis in terms of the Public Service Act and fall within the scope of the PSCBC.

2. AUTHORISATION

- 2.1. This directive is issued, in terms of the provisions of section 3(3)(e) of the Public Service Act, 1994 as amended, by the Minister for Public Service and Administration.

3. ANNUAL LEAVE

- 3.1. Employees are entitled to annual leave with full pay during each leave cycle of 12 months, commencing on 01 January of each year, in terms of Annexure A.
- 3.2. For each 15 consecutive days leave taken without pay, the employees' annual leave entitlement shall be reduced by one-twelfth.
- 3.3. For the purpose of granting annual leave, working days shall mean Monday to Friday, except in the case of shift workers whose annual leave may be taken on a Saturday and Sunday.
- 3.4. At least 10 working days must be taken as leave days during the annual leave cycle. **NOTE: Annual leave should, as far as possible, be taken as consecutive working days.**
- 3.5. The remaining leave days, if any, must be taken no later than 6 months after the expiry of the relevant leave cycle, whereafter, unused leave credits shall be forfeited.
- 3.6. Employees must be cautioned timeously if, at the end of the relevant leave cycle, they have not utilised their leave entitlements.
- 3.7. If due to the employer's service delivery requirements an employee's application for leave is denied and not rescheduled, such leave must, upon request, be paid out to the employee at the end of the 6 months' period referred to in 3.5 above. Employee requests for payment of unused leave credits must be:

- a) In writing; and

b) accompanied by written proof of refusal of leave by the Head of Department.

3.8. Heads of Department shall, at the end of the relevant 18 months' period, report to the relevant legislature on the number of employees denied annual leave, reasons for such denial and the amount paid in this regard.

4. THE GRANTING OF ANNUAL LEAVE ON A PRO RATA BASIS

4.1. Employees who are appointed after the commencement of an annual leave cycle shall be entitled to annual vacation leave on a pro rata basis determined as a fraction of the entitlement as per Annexure A.

4.2. Temporary employees on fixed term contracts shall be granted annual leave that is proportional to their term of employment at a rate of one-twelfth of the annual credit applicable to the employee category (as per Annexure A), per month of service.

5. ANNUAL LEAVE AND PAYOUTS

5.1. Employees shall be paid a cash value in respect of unused leave credit upon termination of service and in terms of paragraph 3.7 above. The payment will be limited to a maximum of 22 working days.

5.2. The leave cycle remains unchanged, therefore, requests and motivations for leave payments in respect of leave credits mentioned in 3.7 above shall be lodged by no later than 31 July 2001 for the 11 working days accumulated from 1 July to 31 December 2000 and 31 July in respect of each year thereafter.

5.4 Payment of annual leave credits shall be calculated using the employee's basic salary (with the exclusion of benefits).

5.5 For all terminations in respect of personnel without any capped leave and at the expiry of the 6 months period mentioned in 3.5 above, leave payouts shall be computed in terms of the following formula:

$$\frac{\{(A - B) + (C - D)\}^* \times E}{261}$$

* The sum total of A – B and C – D must not exceed the maximum of 22 days as provided for in paragraph 5.1 of this directive.

Where:

A = Full annual or pro rata leave entitlement in a leave cycle
(Pro rata entitlement calculated as $\frac{X \times Y}{12}$)

Where –

X = number of completed months of service; and

Y = annual leave entitlement per leave cycle as per Annexure A)

B = Leave taken in the previous leave cycle

C = Pro rata leave entitlement in the current leave cycle (Calculated as in A above)

D = Leave taken in the new leave cycle

E = Employee's annual basic or pensionable salary as at the last day of duty or at the end of the 6 months period mentioned in 3.5 above.

NOTE: For computed EXAMPLES, please see Annexure B

6. ANNUAL LEAVE ACCRUED PRIOR TO 1 JULY 2000

6.1. Employees shall retain all audited leave credits accrued prior to 1 July 2000.

6.2. The number of accrued leave days prior to 1 July 2000 shall be converted to working days using the following formula:

$$\frac{A \times X \times 5}{7}$$

Where -

A = Number of audited leave credits

6.3. The payouts in respect of such leave credits shall be made in the event of:

6.3.1. Death;

6.3.2. Retirement; or

6.3.3. Medical boarding.

6.4. The leave payout in respect of personnel with capped and audited leave credits shall be determined in the following manner:

$$\frac{\{(A - B) + (C - D)^{\dagger} + F\} \times E}{261}$$

Where –

A = Full annual or pro rata leave entitlement in the previous leave cycle
(Pro rata leave entitlement calculated as $\frac{X}{12} \times Y$)

where:

X = number of completed months; and

Y = annual leave entitlement per leave cycle as per Annexure A)

B = Leave taken in the previous leave cycle

C = Pro rata leave entitlement in the current leave cycle

D = Leave taken in the new leave cycle

E = Employee's annual basic or pensionable salary as at the last day of duty

F = Capped leave (as on 30 June 2000 less all leaves taken from the capped leave)

NOTE: For computed EXAMPLES, please refer to Annexure B

[†] The sum total of A – B and C - D must not exceed 22 days as provided for in paragraph 5.1 of this directive.

- 6.5. The Head of Department shall determine whether there are periods which are unaudited and in such instances, the employee's leave payout shall be paid on the basis of 6 days per completed year of service up to a maximum of 100 days in respect of the unaudited leave period. The formula in calculating the payout in respect of these days shall be as per paragraph 6.4 above.
- 6.6. The Head of Department shall determine procedures and measures in keeping with service delivery needs, on how employees will be allowed to utilise their leave credits accrued prior to 1 July 2000 over and above the normal vacation entitlements as per annexure A.

7. NOMINATION OF BENEFICIARIES AND LEAVE PAYOUTS

- 7.1. Employees may, if they so desire, designate one or more beneficiaries to whom their leave payout may be paid in the event of their death.
- 7.2. If an employee dies and has not nominated a beneficiary, the leave payout may be paid:
 - 7.2.1. In full to the spouse/life partner of that employee; or
 - 7.2.2. If there is no spouse/life partner, in equal shares for the benefit of minor and other children (including legally adopted children) of the deceased who, at the time of her or his death, were fully dependent on the employee; or
 - 7.2.3. If there are no children, to the employee's estate.

8. ANNUAL LEAVE WITH FULL PAY GRANTED IN EXCESS

- 8.1. An employee may not be granted annual leave with full pay in excess of that which the employee is entitled to in terms of Annexure A plus capped leave in respect of persons who were in service prior to 1 July 2000.
- 8.2. If due to a *bona fide* error, an employee had been granted annual leave with full pay in excess of that which stood to her or his credit at that time, such over grant must be deducted from the subsequent leave cycle.
- 8.3. If an employee who has been over-granted annual leave with full pay exits the Public Service, that portion of the over-grant which exceeded her or his normal annual leave credit on her or his last day of duty must be regarded as an overpayment that must be recovered from her or him.

- 8.4. If an employee exits the Public Service during an annual leave cycle after utilising all his/her annual leave for the leave cycle, the provisions of 8.3 above shall apply.

9. NORMAL SICK LEAVE

- 9.1. Employees are entitled to 36 working days sick leave with full pay over a three-year cycle. Unused sick leave shall lapse at the expiry of the three-year cycle.
- 9.2. Sick leave may also be granted in respect of periods where an employee must be quarantined or isolated for at least 10 consecutive days.
- 9.3. If an employee is unable to report for duty due to sudden illness, she or he must immediately notify his/her immediate supervisor of her or his inability to report for duty.
- 9.4. Employees who apply for three or more sick leave days must submit a certificate from a registered and recognised medical practitioner as defined by the Health Professionals' Council of South Africa, citing the reason and duration of absence.
- 9.5. In instances where a pattern in the utilisation of sick leave has been established, a certificate may be required for absences of less than three working days.
- 9.6. For every 15 consecutive days leave taken without pay, an employee's sick leave entitlement shall be reduced by 1/36th per sick leave cycle.
- 9.7. If an employee falls ill whilst on annual leave with full pay, such leave may be converted to sick leave provided that a certificate from a registered medical practitioner is submitted to substantiate the indisposition.

10. TEMPORARY DISABILITY LEAVE

- 10.1. An employee who has exhausted her or his sick leave credit in a three-year cycle and who, according to the relevant medical practitioner, requires to be absent due to disability that is not permanent may, at the discretion of the Head of Department, be granted additional sick leave with full pay in the event of serious illness.
- 10.2. Such a condition must have been certified in advance by the attending medical practitioner as a temporary disability except where conditions do not permit.

- 10.3. The Head of Department may require the employee to obtain a second opinion before granting approval for additional sick leave. Expenditure in this regard will be met from the departmental budget.
- 10.4. The Head of Department may grant a maximum of 30 consecutive working days leave with full pay during which period an investigation must be conducted into the nature and extend of the disability. The investigation shall be conducted in accordance with item 10(1) of Schedule 8 of the Labour Relations Act, 1995.
- 10.5. On the basis of medical evidence, the Head of Department may approve the granting of additional sick leave days on conditions that she or he shall determine.
- 10.6. If the employee is of the view that she or he has been unfairly treated as regards the granting of additional sick leave, she/he has the right to follow the grievance procedure and the relevant dispute resolution procedures in order to settle the matter.

11. PERMANENT DISABILITY

- 11.1. Employees whose degree of disability has been certified by a competent medical practitioner as permanent shall, with the approval of the Head of Department, be granted a maximum of 30 working days paid sick leave, or such additional number of days required by the employer to finalise processes mentioned below.
- 11.2. The employer shall, within 30 working days, ascertain the feasibility of:
- 11.2.1. Alternative employment; or
 - 11.2.2. Adapting duties or work circumstances to accommodate the employee.
- 11.3. An employee, whose degree of disability has been certified as permanent but who can still render a service, may be redeployed horizontally with retention of her or his benefits.
- 11.4. If the redeployment necessitate reallocation to a job of a lower grading, such should be explained well in advance and the continued utilisation of such an employee should, in this regard, be with her or his consent.

- 11.5. In instances where the employee's redeployment entail retraining or retooling, the employer shall take requisite resources (time and financial) and potential returns into consideration before approving redeployment.
- 11.6. The redeployment of an employee's services should ensure the optimal utilisation of her or his competencies and should not compromise service delivery.
- 11.7. If the employer or the employee is convinced that the employee will never be able to render an effective service at her or his level or rank, the employee may proceed with an application for termination of service due to ill health in terms of the Government Employees Pension Law of 1996 or the employer may initiate the procedures in terms of the PSCBC Resolution 12 of 1999 (Incapacity Code and Procedures in respect of ill health).

12. LEAVE FOR OCCUPATIONAL INJURIES AND DISEASES

- 12.1. Employees who, as a result of their work, suffer occupational injuries or contract occupational diseases, shall be granted occupational and disease leave for the duration of the period they cannot work.
- 12.2. If an employee suffers a work-related injury as a result of an accident involving a third party, the Head of Department shall grant her or him occupational injury leave provided that the employee:
- 12.2.1. Brings a claim for compensation against the third party.
 - 12.2.2. Undertakes to use compensation (in terms of the Compensation for Occupational Injuries and Diseases Act of 1993) received to recompense as far as possible for the cost arising from the accident.
- 12.3. The Head of Department shall take reasonable steps to assist an employee to claim compensation according to 12.2 above.

13. MATERNITY LEAVE

- 13.1. Employees are entitled to 4 consecutive calendar months' maternity leave to commence:
- 13.1.1. at least four weeks before the expected date of birth; or
 - 13.1.2. on a date certified by the attending practitioner as necessary for the employee's health or that of the unborn child.

13.2. For at least six weeks after the birth, no employee may commence with normal official duty unless the attending practitioner certifies that the employee is fit to do so.

13.3. Maternity leave may be extended upon application by:

13.3.1. the granting of sick leave as a result of a medical complication;

13.3.2. the granting of up to 184 calendar days unpaid leave; or

13.3.3. the granting of annual leave.

13.4. Employees who, during the third trimester of their pregnancy, experience a miscarriage, still birth or termination of the pregnancy on medical grounds, shall be eligible for six consecutive week's maternity leave[‡], whereafter, 13.3.1 shall apply in the event of a medical complication.

13.5. Provisions in 13.4 above shall also apply to an employee who experiences a miscarriage, stillbirth or termination of pregnancy on medical grounds after the commencement of maternity leave. The period prior to the miscarriage, stillbirth or termination of pregnancy shall be regarded as special leave with full pay.

14. ADOPTION LEAVE

14.1. An employee who adopts a child that is younger than two years, shall qualify for adoption leave to a maximum of 45 working days, whereafter, 13.3.2 and 13.3.3 shall apply.

14.2. If both spouses or life partners are employed in the Public Service, both partners will qualify for adoption leave provided that the combined leave taken does not exceed the 45 working days mentioned in 14.1 above.

15. FAMILY RESPONSIBILITY LEAVE

15.1. Employees shall be granted 3 days leave per annual leave cycle for utilisation if:

15.1.1. The employee's spouse or life partner gives birth to a child; or

15.1.2. The employee's child, spouse or life partner is sick.

[‡] Leave to begin after the miscarriage, stillbirth or the termination of pregnancy.

15.2. Employees shall be granted 5 days leave per annual leave cycle for utilisation if:

15.2.1. The employee's child or life partner dies; or

15.2.2. An employee's immediate family member dies.

15.3. The number of family responsibility leave days taken according to 15.1 and 15.2 above shall not exceed five (5) days in an annual leave cycle.

15.4. Employees who have used all their family responsibility leave may, subject to the approval of the Head of Department, apply to:

15.4.1. Use available annual leave; or

15.4.2. Use up to 184 calendar days of unpaid leave.

16. SPECIAL LEAVE

16.1. The Head of Department shall ensure that her or his department has adopted a special leave policy. The said policy should be negotiated in the relevant bargaining structures.

16.2. The policy mentioned in 16.1 above shall define:

16.2.1. Circumstances under which special leave is granted; and

16.2.2. As far as possible, events for which employees shall be granted special leave.

16.3. The policy may provide paid leave for such requirements as study, examinations, military service, resettlement due to a transfer, collective bargaining or other labour relations requirements, participation in sports, sabbaticals where appropriate or any other purpose.

16.4. The Head of Department may also provide for a policy on leave for the treatment of substance abuse.

17. LEAVE FOR OFFICE BEARERS OR SHOP STEWARDS OF RECOGNISED EMPLOYEE ORGANISATIONS

17.1. Office bearers or shop stewards of recognised employee organisations shall receive up to 10 working days paid leave per annum for activities related to her or his union position.

17.2. All applications for this type of leave must be submitted in writing together with supporting documentation.

18. UNPAID LEAVE

18.1. If an employee has utilised all her or his annual leave with full pay, the Head of Department may grant her or him unpaid leave. Only in exceptional circumstances shall the Head of Department grant the employee more than 184 calendar days of unpaid leave in a period of 18 months.

18.2. An employee shall utilise unpaid leave for absences from work due to:

18.2.1. Arrest, imprisonment or appearance in court on a criminal charge that leads to a conviction; or

18.2.2. A criminal sentence.

18.3. Heads of department shall ensure that the internal disciplinary procedures are not dependent on external processes, e.g. Criminal Justice processes/procedures.

19. LEAVE PROVISIONS FOR CASUAL EMPLOYEES APPOINTED ON AN HOURLY/DAILY/MONTHLY BASIS

19.1 Annual leave

19.1.1. With effect from 01 June 2000 casual employees are entitled to one day's annual leave for every seventeen (17) days worked.

19.1.2. Casual employees may only take annual leave once they have the leave to their credit.

19.1.3. If an employee has utilised all her or his annual leave credits, the Head of Department may grant her or him unpaid leave.

19.1.4. Employees who have been in employment for longer than four (4) months are entitled to payment in respect of any unused annual leave credits in an annual leave cycle in the event of the termination of their services.

19.1.5. Payment of annual leave credits shall be calculated using the basic salary of the employee.

a) *Hourly rate*

$$A \times 8 \times B$$

Where –

A = the basic wage per hour; and

B = the number of days of annual leave credits

b) *Daily rate*

$$C \times B$$

Where –

C = the basic wage per day; and

B = the number of days of annual leave credits

c) *Monthly rate*

$$\frac{D \times B}{22}$$

Where –

D = the basic salary per month; and

B = the number of days of annual leave credits

19.2 *Sick leave*

19.2.1 Casual employees shall be entitled to one (1) day sick leave for every completed month of employment.

19.2.2 The Head of Department may grant sick leave without pay.

19.3 Maternity leave

19.3.1 Casual employees are entitled to a maximum of four (4) consecutive months of unpaid maternity leave during their contract period.

19.3.2 The employer shall assist the casual employee in accessing the benefits payable in terms of the Unemployment Insurance Fund Act.

19.4 Family Responsibility leave

19.4.1 Employees shall, during an annual leave cycle, be granted a maximum of three (3) day's family responsibility leave for utilisation if the employees:

- a) spouse/life partner gives birth to a child; or
- b) dependant child, spouse/life partner is sick; or
- c) child or spouse/life partner dies; or
- d) immediate family member dies.

Other

19.4.2 The following directives shall also apply – paragraph 7; 8; 16;17 and 20.

20. GENERAL PROVISIONS

20.1. Except in exceptional circumstances, the employee may not stay away from her or his place of duty unless an application for leave of absence has been lodged in writing and he/she has been informed by the Head of Department that the application has been approved.

20.2. Heads of Department must ensure that:

20.2.1. Leave forms are submitted for all absences and all outstanding leave forms are followed up.

20.2.2. All leave taken is captured on a daily basis and there are no backlogs in respect of each annual leave cycle.

20.2.3. Individual utilisation of leave is communicated to employees at the end of each annual leave cycle in respect of annual vacation leave.