



**DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION
REPUBLIC OF SOUTH AFRICA**

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TO ALL HEADS OF DEPARTMENTS AND PROVINCIAL ADMINISTRATIONS

DEFINITION OF SPOUSE FOR PURPOSES OF SERVICE BENEFITS, WORKER COMPENSATION AND WORKER FACILITY

1. The Constitution defines and protects the right to equality in section 9 to the extent that-
 - 1.1. Everyone is equal before the law and has the right to equal protection and benefit of the law.
 - 1.2. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination, may be taken.
 - 1.3. The State may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
 - 1.4. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
 - 1.5. Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

2. In terms of sec 6 (1) of the Employment Equity Act, 1998 no person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth.
3. Generally speaking the various service benefits, worker compensation and work facility practices/policies as contained in prescripts, PSCBC Resolutions presently provide only for application to the spouse or both the spouse and life partner.
4. With due consideration of the above and in keeping with current research, debates and court rulings, the Minister for the Public Service and Administration issue a directive in terms of section 3 (3) of the Public Service Act, 1994, as amended, to elucidate on the application of the term 'spouse' contained in provisions regulating all service benefits, worker compensation and work facilities, (**except the GEPF**). The term "spouse" is for purposes of application defined as follows:

"Spouse" – means a person or persons registered with the Employer as (the) lawful husband(s) or wife(wives) or life partner (including same sex life partner) by the employee at the time of use of the benefit, worker compensation or work facility: Provided that an employee:-

 - (a) may register all spouses entered into under customary or indigenous law with the Employer;
 - (b) may register only one life partner at a time with the Employer;
 - (c) who has (a) spouse(s) registered with the Employer in terms of the recognition of Customary Marriages Act, 1998 and the Marriages Act, 1961, may not register a life partner with the Employer.
5. Please note that a similar definition of spouse for purposes of the GEPF will be introduced through the Pension Restructuring process, which is in an advanced stage.
6. As you will note from the above definition, a registration process of life partners and spouses is required. A single registration process for both the GEPF and other conditions of service is foreseen. The procedural aspects is currently being unpacked and will be finalised soon. The arrangements and forms for the registration of life partners and spouses will be communicated in due course.


DIRECTOR-GENERAL

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