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REPUBLIC OF SOUTH AFRICA**

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TO HEADS OF DEPARTMENTS/PROVINCIAL ADMINISTRATIONS

IMPLEMENTATION OF THE DIRECTIVE ON LEAVE OF ABSENCE FOR THE PUBLIC SERVICE AS AMENDED

1. Subsequent to the implementation of the current leave dispensation as regulated in PSCBC Res. 7 of 2000, read with the *Directive on Leave of Absence for the Public Service* (hereafter referred to as the *Directive*), certain issues and concerns were raised in the PSCBC regarding the implementation of both PSCBC Resolution 7 of 2000 as well as the *Directive*. The PSCBC consequently resolved that these issues be referred to the Leave Task Team to develop proposals to resolve the issues concerned.
2. The above culminated in the recent conclusion of PSCBC Resolution 15 of 2002, as well as certain additions/amendments to the *Directive*. To this end it should be highlighted that in the course of negotiating the afore-mentioned Resolution, PSCBC Resolution 5 of 2001, i.e. the conciliation agreement to PSCBC Res. 7 of 2002, was adopted in Council.
3. In order to give effect to PSCBC Resolutions 5 of 2001 and 15 of 2002 and to facilitate the smooth implementation of these collective agreements, the Minister for Public Service and Administration has-

- 3.1. made a determination that the current leave provisions as contained in clause 7 of the PSCBC Res. 7 of 2000, be amended by PSCBC Resolutions 5 of 2001 and 15 of 2002; and
 - 3.2. issued an updated directive, containing the uniform norms and standards on the application and implementation of PSCBC Resolutions 5 of 2001 and 15 of 2002, as contained in the attached document '*Directive on Leave of Absence in the Public Service*'.
4. The attached *Directive* seeks to update the current Directive with-
- 4.1. circulars and ad hoc directives that were issued after the publication of the Directive in November 2000. These include the directives on the interruption of maternity leave and the acceptance of medical certificates;
 - 4.2. measures to better facilitate and administer the leave system. These include for example the alignment of the fraction according to which an employee's annual and sick leave are being reduced when on unpaid leave, introducing an acceptable factor in calculating leave payouts and the annual entitlements when an employee's employment status changes without a break in service;
 - 4.3. the amendments necessary to give effect to PSCBC Resolutions 5 of 2001 and 15 of 2002. To this end the main additions/amendments concerns the following aspects of leave:
 - 4.3.1. Annual leave
 - 4.3.1.1. The limit for leave payouts is increased from a maximum of 22 days to a maximum of the employee's actual entitlement contained in Annexure A to the said collective agreement.
 - 4.3.1.2. The 50% leave entitlement, or any portion thereof, which was due to employees for the period 1 July 2000 to 31 December 2000, and which could not be utilized before 30 June 2001, must be added to the number of leave days accrued prior to 1 July 2000 (capped leave). This provision is a once-off arrangement only in respect of those cases where no leave payouts have been affected.
 - 4.3.1.3. The introduction of a new uniform leave dispensation for non-teaching staff at schools/training institutions.
 - 4.3.2. Sick leave
 - 4.3.2.1. Aligning terminology with current practice, i.e. replacing the term 'disability' with 'incapacity' where applicable.
 - 4.3.2.2. Amending the current provisions to include practitioners who fall within the definition of the Health Professions Council and who are legally certified to diagnose and treat patients for purposes of accepting these practitioners' medical certificates. This amendment is also in line with the BCEA.

4.3.3. Family Responsibility

4.3.3.1. The employer (head of department) may in exceptional circumstances increase family responsibility leave days in excess of the days contemplated in the collective agreement.

5. Departments are requested to ensure that the necessary steps are taken to give effect to the revised Directive.


DIRECTOR-GENERAL
For



DIRECTIVE ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE

**ISSUED BY THE MINISTER FOR PUBLIC SERVICE AND
ADMINISTRATION**

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PART 1: TRANSITIONAL ARRANGEMENTS TO FACILITATE IMPLEMENTATION OF CHANGES TO THE LEAVE DISPENSATION AS CONTEMPLATED IN THE AUGUST 2003 VERSION OF THE DIRECTIVE

1. INTRODUCTION

1.1. This Part provides transitional arrangements in respect of those changes affected to the leave system that warrants special attention to facilitate proper/smooth implementation.

1.2. This Part must be read in conjunction with Part 3 of this document.

2. ANNUAL LEAVE

2.1. Annual leave for Non-teaching Staff at Schools/Training Institutions

2.1.1. All non-teaching staff at schools and training institutions are, for purposes of annual leave now categorised in category 3 of Annexure A to the Directive. Please refer to Part 3 of this document.

2.1.2. In order to allow a fair opportunity for the necessary planning and scheduling of leave for employees concerned, the Minister for Public Service and Administration issued a directive that this provision be effected only with effect from the start of the new leave cycle, i.e. 1 January 2004.

2.1.3. It is thus required that the relevant Departments of Education in collaboration with the heads of these institutions and employees concerned do the necessary planning and scheduling of leave, taking into account the principles of fairness and equity stipulated in the Directive.

2.2. Probation Period

2.2.1. Sec 13 (c) of the Public Service Act, 1994, as amended, stipulates that an employee's probation period is extended by the number of days' leave taken by him/her during the probation period.

2.2.2. The employer undertook to take steps to amend sec 13 (c) of the Public Service Act, 1994 to provide that annual leave be covered within the probationary period.

2.2.3. The above amendment will, however, be effected through the normal law amendment process. The said implementation date will be communicated as soon as the law amendments have been promulgated.

2.2.4. In view of the above, the current arrangements prevail until further notice.

3. UNPAID LEAVE (LEAVE WITOUT PAY)

The changed factors for reducing annual and sick leave in the event of leave without pay/unpaid leave as contemplated in paragraphs 3.2 and 12.7 of Part 2 of this document will with due consideration to good administration be effected with effect from the new leave cycle which commence on 1 January 2004.

PART 2: DIRECTIVE ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE AS AMENDED

1. SCOPE

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

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 1/24th.
- 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. The utilisation of this leave must take the service delivery requirements of a department into account. **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, where after unused leave credits shall be forfeited.
- 3.6. Employees must be cautioned timeously if, at the end of the relevant leave cycle, if they have not utilised their leave entitlements.
- 3.7. An employee's application for annual leave should not be unreasonably refused. An application for annual leave should take the service delivery requirements of a department into account.
- 3.8. **Any refusal of annual leave must be confirmed in writing, stating the reasons and arrangements for rescheduling of the annual leave.**
- 3.9. 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:

3.9.1. in writing; and

3.9.2. accompanied by written proof of refusal of leave by the Head of Department.

3.10. Heads of Departments 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.

3.11. The 50% leave entitlement, or any portion thereof, which was due to employees for the period 1 July 2000 to 31 December 2000, and which could not be utilised before 30 June 2001, shall be added to the number of leave days accrued prior to 1 July 2000. **This provision is a once off arrangement only in respect of those cases where no leave payouts have been effected.**

4. LEAVE FOR NON-TEACHING STAFF AT SCHOOLS AND TRAINING INSTITUTIONS (Employed in the various Departments of Education)

4.1. All non-teaching staff at schools and training institutions are, for purposes of annual leave, accommodated in category 3 of Annexure A.

4.2. Non-teaching staff at schools and training institutions must take at least 22 of the 27 working days annual leave during the period for which a school/training institution closes for the holidays. The remaining 5 days may be taken when the institution is in operation.

4.3. The annual leave entitlement should, in these circumstances, be regarded as the minimum. Therefore, if an employee is not required at the institution during the period(s) when the institution closes for holidays, an employee may utilise his/her annual leave entitlement and/or paid time off granted by the employer.

4.4. The head of the institution should ensure that his/her decisions are based upon the principles of fairness and equality in determining the leave roster for the employees concerned.

4.5. With due regard to the principles of fairness and equality-

4.5.1. Annual leave and holidays constituting time off should be planned and scheduled for at least at the beginning of a leave cycle, i.e. January of each year.

4.5.2. Considering that most schools/training institutions do their strategic planning and year programmes for the subsequent year usually towards the end of the previous leave cycle. The planning and scheduling of annual leave and holidays constituting time off can also commence at that stage.

- 4.5.3. Planning and scheduling should take place in collaboration with the head of the institution and the employees concerned.
- 4.5.4. As for periods of time off during institution holidays the following could be taken into account-
- 4.5.4.1. The concept of 'if an employee is not required at the institution during the period(s) (refer to paragraph 4.3). If an employee is not required during the institution holidays, the institution may not require from that employee to report for duty, **except** in extenuating circumstances which have direct bearing on operational/ service delivery requirements of that institution.
 - 4.5.4.2. Attention needs to be given to activities/services that needs to take place/be delivered during the period when the school/institution closes for holidays.
 - 4.5.4.3. It could be considered to schedule and present formal training for all non-teaching members of staff during some of these periods.
 - 4.5.4.4. A roster of time off should be developed to give each member of staff a fair opportunity to time off, in the event where activities are to take place/services have to be rendered.
 - 4.5.4.5. Tasks should as far as possible be rotated between non-teaching members of staff and retain where possible only a minimum service delivery staff complement if their services are required during the period when the school/institution closes for holidays.
 - 4.5.4.6. Heads of institutions should ensure that duties and responsibilities assigned to the employees concerned (during these holidays) may only relate to their normal assigned duties and responsibilities as contemplated in their job descriptions, **unless arranged by mutual consent**.
 - 4.5.4.7. It is important to make sure that non-teaching staff is retained on duty during institution holidays, only for valid official duty.
- 4.5.5. For purposes of paragraphs 4.1 to 4.4 above, the employer shall ensure in the case of an institution presenting a **combination of courses e.g. semester and trimester courses**, that the annual leave and periods of time off of non-teaching staff rendering a support service to the academic staff, will be aligned with the dispensation applicable to the said academic staff.

5. ANNUAL LEAVE OF EMPLOYEES WHO WERE TAKEN OVER FROM THE FORMER PROVINCIAL ADMINISTRATIONS AND DEVELOPMENT BOARDS

5.1. Employees of the former Provincial Administrations and Development Boards who were taken over by the Public Service in 1986 and 1989, respectively, are eligible to the annual leave entitlements as indicated in category 4, in respect of nursing employees and category 6 in respect of all other employees as contained in Annexure A.

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

6.1. 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.

6.2. 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.

6.3. For purposes of utilising leave entitlements, fractions or decimals must be utilised as they are. In other words fractions or decimals must not be rounded off.

6.4. Departments must keep manual records of the utilisation of fractions/decimals and leave forms must be completed for every eight hours fractions and/or leave taken.

6.5. For purposes of converting fractions/decimals of leave entitlements into working hours the following formula(s) should apply:

Converting fractions into hours:

$$8 \times A = B$$

Where-

8 = represents the number of working hours in a day

A = represents the fraction

B = represents the credit in hours

For example: Employee with 7,45 leave credits:

$$8 \times 0.45 = 3.6 \text{ hours}$$

Converting fractions into minutes:

$$60 \times B = C$$

Where-

60 = represents the minutes in an hour

B = represents the fraction

C = total credit in minutes

For example: Employee with 3.6 hours leave credit (see example above)

$$60 \text{ min} \times 0.60 = 36 \text{ minutes}$$

In other words the employee with 7.45 days' leave credits has 7 days, 3 hours and 36 minutes leave

- 6.6. For purposes of leave payouts, fractions or decimals must be used as they are in the formula provided for in paragraphs 7.4 and 8.4 of this Directive.
- 6.7. Unused fractions and decimals lapse at the end of the six months period referred to in paragraph 3.5 above.
- 6.8. If an employee's annual leave entitlements changes, e.g. from 22 to 26 working days per annum after ten years satisfactory service, the unused fractions or decimals must also be carried over to the new leave category and be administered manually.

7. ANNUAL LEAVE AND PAYOUTS

- 7.1. Employees shall be paid a cash value in respect of unused leave credit upon termination of service and in terms of paragraph 3.9 above. The payment will be limited to a maximum number of days equivalent to the annual leave entitlements in Annexure A.
- 7.2. The leave cycle remains unchanged, therefore, requests and motivations for leave payments in respect of leave credits mentioned in 3.9 above shall be lodged by no later than 31 July in respect of each year.
- 7.3. Payment of annual leave credits shall be calculated using the employee's basic salary (with the exclusion of benefits).
- 7.4. 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:

$$\frac{\{(A - B) + (C - D)\} \times E}{260.714}$$

Where-

A = represents the full annual or pro rata leave entitlement in the previous 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 = represents the leave taken in the previous leave cycle

C = represents the pro rata leave entitlement in the current leave cycle (Calculated according to the formula in A above)

D = represents the leave taken in the current leave cycle

E = represents the 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 refer to Annexure B

8. ANNUAL LEAVE ACCRUED PRIOR TO 1 JULY 2000

- 8.1. Employees shall retain all audited leave credits accrued prior to 1 July 2000.
- 8.2. 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 = represents the number of audited leave credits

- 8.3. The payouts in respect of such leave credits shall be made in the event of:
- 8.3.1. Death;
- 8.3.2. Retirement; or
- 8.3.3. Medical boarding.

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

$$\frac{\{(A - B) + (C - D) + F\} \times E}{260,714}$$

Where –

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

where-

X = represents the number of completed months; and

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

B = represents the leave taken in the previous leave cycle

C = represents the pro rata leave entitlement in the current leave cycle. (Calculated according to the formula in A above)

D = represents the leave taken in the current leave cycle

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

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

NOTE: For computed EXAMPLES, please refer to Annexure B

- 8.5. 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 8.4 above.
- 8.6. 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 annual leave entitlements as per Annexure A.

9. NOMINATION OF BENEFICIARIES AND LEAVE PAYOUTS

- 9.1. 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. *Departments should actively promote the nomination of beneficiaries in order to avoid any hardship of such beneficiaries.*
- 9.2. If an employee dies and has not nominated a beneficiary, the leave payout may be paid:
- 9.2.1. In full to the spouse/life partner of that employee; or
- 9.2.2. 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 his or her death, were fully dependent on the employee; or
- 9.2.3. If there are no children, to the employee's estate.

10. ANNUAL LEAVE WITH FULL PAY GRANTED IN EXCESS

- 10.1. 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.
- 10.2. If due to a *bona fide* error, an employee had been granted annual leave with full pay in excess of that which stood to his or her credit at that time, such over-grant must be deducted from the subsequent leave cycle.
- 10.3. 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 his or her normal annual, leave credit on his or her last day of duty must be regarded as an overpayment that must be recovered from him or her. The latter overpayment should be determined according to the following formula:

$$\frac{A \times B}{260,714}$$

Where-

A= represents the employees basic annual salary notch per annum

B= represents the number of days annual leave over-granted

260.714= represents the number of working days in a year

NOTE: For a computed example, please refer to Annexure B

10.4. 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 10.3 above shall apply.

11. ANNUAL LEAVE: GENERAL PROVISIONS

11.1. An employee retains all his/her annual leave credits, when he/she is transferred within or between departments, due to him/her at that point in time. The employee retains likewise the leave category as reflected in Annexure A. The utilisation of these leave credits are subject to the provisions of this Directive.

11.2. If an employee transfers to an occupational class to which a different leave category applies, he/she adopts the new leave category for that occupational class. The employee will retain the leave credits due to him/her of the old occupational class. The utilisation of these leave credits is subject to the provisions of this Directive.

11.3. The provisions in paragraphs 11.1 and 11.2 apply *mutatis mutandis* in the case of employees who are appointed on contract and who secures a permanent or temporary appointment in the Public Service and *vice versa*.

11.4. In the event where an employee qualifies after completion of ten years of service after the first day of the month for the higher leave category in Annexure A, the higher pro rata portion of the new leave category should be calculated from the first day of the next month. The same principle also applies to employees referred to in paragraph 11.2 if they qualify after the first day of the month for the new category of leave.

12. NORMAL SICK LEAVE

12.1. 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.

12.2. Sick leave may also be granted in respect of periods where an employee must be quarantined or isolated for at least 10 consecutive days.

12.3. If an employee is unable to report for duty due to sudden illness, he or she must immediately notify his/her immediate supervisor of his or her inability to report for duty.

12.4. Employees who apply for three or more sick leave days must submit a certificate, citing the reason and duration of absence, from a registered and recognised practitioner.

12.5. Practitioners shall, for this purpose include all practitioners as defined by the Health Professional Council of South Africa and who are legally certified to diagnose and treat patients.

12.6. 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.

12.7. For every 15 consecutive days leave taken without pay, an employee's sick leave entitlement shall be reduced by 1/72nd per sick leave cycle.

12.8. 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.

13. TEMPORARY INCAPACITY LEAVE

13.1. An employee who has exhausted his or her sick leave credit in a three-year cycle and who, according to the relevant medical practitioner, requires to be absent due to incapacity 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.

13.2. Such a condition must have been certified in advance by the attending medical practitioner as a temporary incapacity except where conditions do not permit.

13.3. 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.

13.4. 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 incapacity. The investigation shall be conducted in accordance with item 10(1) of Schedule 8 of the Labour Relations Act, 1995.

13.5. On the basis of medical evidence, the Head of Department may approve the granting of additional sick leave days on conditions that he or she shall determine.

13.6. If the employee is of the view that he or she has been unfairly treated as regards the granting of additional sick leave, he/she has the right to follow the grievance procedure and the relevant dispute resolution procedures in order to settle the matter.

14. PERMANENT INCAPACITY

14.1. Employees whose degree of incapacity 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.

- 14.2. The employer shall, within 30 working days, ascertain the feasibility of:
- 14.2.1. Alternative employment; or
 - 14.2.2. Adapting duties or work circumstances to accommodate the employee.
- 14.3. An employee, whose degree of incapacity has been certified as permanent but who can still render a service, may be redeployed horizontally with retention of his or her benefits.
- 14.4. If the redeployment necessitates 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.
- 14.5. 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.
- 14.6. The redeployment of an employee's services should ensure the optimal utilisation of her or his competencies and should not compromise service delivery.
- 14.7. If the Head of Department or the employee is convinced that the employee will never be able to render an effective service at his or her 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, as amended, 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).

15. **ACCEPTANCE OF MEDICAL CERTIFICATES**

- 15.1. The Head of Department should accept medical certificates that might not describe an employee's illness for sick leave taken during the normal sick leave cycle, i.e. 36 working days in a 3 year cycle, provided that in the event of abuse of the system during the normal sick leave period of 36 working days (e.g. a pattern of regular sick leave on Mondays or Fridays) the employer may request a medical certificate describing the nature and extent of the illness before granting sick leave with full pay.
- 15.2. The Head of Department will only consider temporary and permanent incapacity leave with full pay if the employee submits a medical certificate describing the nature and extent of the illness.
- 15.3. The employee should give the medical practitioner concerned his/her informed consent to reveal the nature and extent of his/her illness to a third party, i.e. the employer and/or the Health Risk Manager (when the new policy for application of temporary incapacity leave and ill-health retirement is in place and where the employer requests this as a result of abuse).

- 15.4. In the event of an employee refusing/failing to submit a medical certificate describing the nature and extent of the illness for purposes of temporary and permanent incapacity leave, the period of absence will be covered by annual leave (with the employee's consent) or unpaid leave.
- 15.5. **It is extremely important that the employer should at all times treat such information with the necessary respect and confidentiality.** Information concerning the medical condition of an employee may therefore not be divulged to any other person(s) not directly involved in the decision-making process regarding the granting of sick leave. If an employee involves him/herself in divulging such confidential information of one employee to any other unauthorized person, he/she should be disciplined in terms of the Disciplinary Code.
- 15.6. In terms of the Ethical Rules of the Health Professions Council-
- 15.6.1.a medical certificate should contain the following information:
- (a) the name, address and qualifications of the practitioner;
 - (b) the name of the patient;
 - (c) the employment number of the patient (if applicable);
 - (d) the date and time of examination;
 - (e) whether the certificate is being issued as a result of personal observations by the practitioner during an examination, or as the result of information received from the patient and which is based upon acceptable medical grounds;
 - (f) a description of the illness, disorder or malady in layman's language if the patient has provided informed consent for it to be disclosed;
 - (g) whether the patient is totally indisposed for duty or whether the patient will be able to perform less strenuous duties in the work situation;
 - (h) the exact period of recommended sick leave
 - (i) the date of issue of the certificate of illness; and
 - (j) a clear indication of the identity of the practitioner who issued the certificate.
- 15.7. if the practitioner uses pre-printed medical certificates, wording not applicable to the patient should be deleted.

16. GENERAL: SICK LEAVE

16.1. In the event where an employee has to –

16.1.1. consult a doctor, therapist, etc. for reasons related to the employees health/wellness, or

16.1.2. go for training related to a disability, e.g. a blind employee who has to get training with his/her guide dog, or

16.1.3. go for maintenance work for equipment used as a result of his/her disability,

the Head of Department may grant such employees time off in terms of the sick leave provisions.

16.2. Where an employee is absent for a part of the day, the Head of Department could manually record such time off until a full day is completed as sick leave.

16.3. If an employee's normal sick leave is exhausted, then temporary incapacity leave could be considered.

16.4. The Head of Department may require the necessary proof of such events/occurrences to properly monitor the utilisation of sick leave.

16.5. Fractions of sick leave entitlements may be converted using the formula in par.6.5 above.

17. LEAVE FOR OCCUPATIONAL INJURIES AND DISEASES

17.1. 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.

17.2. If an employee suffers a work-related injury as a result of an accident involving a third party, the Head of Department shall grant him or her occupational injury leave provided that the employee:

17.2.1. Brings a claim for compensation against the third party.

17.2.2. 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.

17.2.3. The Head of Department shall take reasonable steps to assist an employee to claim compensation according to 17.2 above.

Note: When an employee is injured on duty, the employer could, depending on the circumstances, pay the medical expenses of the employee concerned, pending the outcome of the claim for an injury

on duty. The purpose of this provision is therefore to recover the employer's expenses once the claim is settled.

18. MATERNITY LEAVE

18.1. Employees are entitled to 4 consecutive calendar months' maternity leave to commence:

18.1.1. at any time from four weeks before the expected date of birth; or

18.1.2. on a date from which the attending medical practitioner certifies that it is necessary for the employee's health or that of the unborn child.

18.2. It is preferable that an employee commences her maternity leave at least two weeks prior to the expected date of birth. However, the service delivery requirements of a particular Sector may require different arrangements with regard to the period and stage at which maternity leave, with due consideration of the employee and her unborn child's health and safety, should commence.

18.3. 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.

18.4. Maternity leave may be interrupted if-

18.4.1. the baby is born prematurely and is hospitalised during maternity leave; or

18.4.2. the baby becomes ill and is hospitalised for a period longer than a month during the maternity leave.

18.5. The provisions contained in paragraph 18.4 are only applicable to an employee, who chooses to interrupt her maternity leave in these circumstances.

18.6. If an employee referred to in paragraph 18.4.1 and 18.4.2 above, choose to interrupt her maternity leave and fail to return to work after the six weeks mentioned in paragraph 18.3 above, such a period must be covered with annual leave or unpaid leave if she does not have enough annual leave available.

18.7. Maternity leave may be extended upon application by:

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

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

18.7.3. the granting of annual leave.

18.8. 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 leave¹, where after, 18.7.1 shall apply in the event of a medical complication.

18.9. Provisions in 18.8 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.

19. **ADOPTION LEAVE**

19.1. An employee who adopts a child that is younger than two years, shall qualify for adoption leave to a maximum of 45 working days, where after, 18.7.2 and 18.7.3 shall apply.

19.2. 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 19.1 above.

20. **FAMILY RESPONSIBILITY LEAVE**

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

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

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

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

20.2.1. The employee's child, spouse or life partner dies; or

20.2.2. An employee's immediate family member dies.

20.3. The number of family responsibility leave days taken according to 20.1 and 20.2 above shall not exceed five (5) days in an annual leave cycle, unless special circumstances warrant further leave at the discretion of the Head of Department.

20.4. Immediate family member for purposes of this provision means the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling. The granting of family responsibility leave must be taken with due consideration of the employee's cultural responsibilities. Where the latter discretion is exercised, Heads of Departments must limit the total period of family responsibility leave to a maximum of 5 days.

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

1 Leave to begin after the miscarriage, stillbirth or the termination of pregnancy.

20.5.1. use available annual leave; or

20.5.2. use up to 184 calendar days of unpaid leave.

21. **SPECIAL LEAVE**

21.1. 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.

21.2. The policy mentioned in 21.1 above shall define:

21.2.1. Circumstances and conditions under which special leave is granted; and

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

21.3. 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.

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

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

22.1. 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.

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

23. **UNPAID LEAVE**

23.1. If an employee has utilised all her or his annual leave with full pay, the Head of Department may grant him or her unpaid leave.

23.2. Unpaid leave days must be granted on a calendar day basis. 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.

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

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

23.3.2. A criminal sentence.

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

23.5. For purposes of calculating unpaid leave, the following formula applies:

$$\frac{A \times B}{365}$$

Where-

A = represents the employee's basic annual salary notch per annum

B = represents the number of days annual leave without pay

365 = represents the number of days in a year

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

24.1. Annual leave

- 24.1.1. With effect from 01 June 2000 casual employees are entitled to-
- (a) one hour's annual leave for every seventeen (17) hours worked; or
 - (b) one day's annual leave for every seventeen (17) days worked.
- 24.1.2. Casual employees may only take annual leave once they have the necessary leave to their credit.
- 24.1.3. If an employee has utilised all his or her annual leave credits, the Head of Department may grant her or him unpaid leave.
- 24.1.4. 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.
- 24.1.5. Payment of annual leave credits shall be calculated using the basic salary of the employee.

(a) Hourly rate

$$A \times B$$

Where –

A = represents the basic wage per hour;
and

B = represents the number of hours of
unused annual leave credits

(b) Daily rate

$$C \times B$$

Where –

C = represents the basic wage per day;
and

B = represents the number of days of
unused annual leave credit

(c) Monthly rate

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

Where –

D = represents the basic salary per
month; and

B = the number of days of unused annual
leave credits

24.2. Sick Leave

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

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

24.3. Maternity leave

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

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

24.4. Family Responsibility leave

24.4.1. Employees shall, during an annual leave cycle, be granted a maximum of three (3) day's family responsibility leave unless special circumstances warrant further leave at the discretion of the Head of Department for utilisation if the employee's:

- (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.

24.4.2. In the event where the above discretion is exercised, Heads of Departments are advised to limit the total period of family responsibility leave to a maximum of 5 days.

24.4.3. Immediate family member for purposes of this provision means the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling. The granting of family responsibility leave must be taken with due consideration of the employee's cultural responsibilities.

24.5. Other Provisions

24.5.1. The following directives shall also apply – paragraph(s) 6.5, 9, 10, 11, 15 (where applicable), 16 (where applicable), 21, 22 and 25.

25. GENERAL PROVISIONS

25.1. Except in exceptional circumstances, the employee may not stay away from his or her 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.

25.2. Heads of Departments must ensure that:

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

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

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

25.3. Training of disabled employees:

25.3.1. Disabled employees must be afforded the opportunity to undergo training to manage their disability. Training required to be able to utilise equipment or the like to access the workplace and to perform the job, should be treated the same as other official training provided to equip employees with the knowledge and skills to do their jobs. The employee with a disability should therefore be offered the relevant training while on official duty.

25.4. Fitment, adjustment or maintenance of equipment of disabled employees:

25.4.1. If a disabled employee needs periods or time off to fit, adjust or maintain equipment to enable the employee to perform his/her job, it should be treated in terms of paragraph 16 above.

ANNEXURE A**Leave Entitlements**

	EMPLOYEE CATEGORY	ANNUAL LEAVE EXPRESSED AS WORKING DAYS
1.	Institution-based educators	As per ELRC Res.7/2001
2.	Office-based educators	As per ELRC Res.7/2001
3.	Non-teaching staff based at schools/institutions	27
4.	Nursing personnel in institutions that provide 24 hour service	
4 (a)	Registered nurses appointed before 1 January 1968	40
4 (b)	Registered or enrolled nurses appointed on or after 1 January 1968: Less than 10 years service 10 or more years of service	 34 38
4 (c)	Nursing assistants appointed before 1 January 1968	35
4 (d)	Nursing assistants appointed after 1 January 1968: Less than 10 years service 10 or more years of service	 30 34
4 (e)	Student and pupil nurses	22
4 (f)	Part-time nurses	22
5.	Employees appointed prior to 1 July 1966	28
6.	Other employees: Less than 10 years service 10 or more years of service	 22 26

ANNEXURE B

Computed Examples

Terminations With No Capped Leave

EXAMPLE 1:

The employee resigns with effect from 1 April 2003, the basic salary on the last day of duty is R75 000, he falls in the 22 working day leave category and has taken at least 10 working days' leave.

The cash value in respect of unused leave credits should be computed in the following manner:

$$\frac{\{(A - B) + (C - D)\} \times E^2}{260,714}$$

Where:

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

where:

X = represents the number of completed months in the current leave cycle; and

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

B = represents the leave taken in the previous leave cycle

C = represents the pro rata leave entitlement in the current leave cycle (Calculated according to the formula in A above)

D = Leave taken in the current leave cycle

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

STEP 1

Use the given information on the employee's leave category to determine A. In the event of a full annual leave entitlement, use Annexure A and in the event of a pro rata leave entitlement (in the previous leave cycle)³, use the formula in STEP 3 below.

² This formula is in terms of paragraph 7.4 of the directive issued by the MPSA.

³ The pro rata leave entitlement in this regard is in respect of employees appointed after a leave cycle has commenced

STEP 2

Use the given information to determine B (Leave taken in the previous leave cycle) and D (Leave taken in the current leave cycle).

STEP 3

Use the formula in STEP 1 above to determine C (pro rata leave entitlement in the current leave cycle beginning 1 January 2003 up to and including the last day of duty).

$$\frac{X \times Y}{12}$$

where:

X = represents the number of completed months in the current leave cycle; and

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

$$\begin{aligned} \text{In other words:} &= \frac{3 \times 22}{12} \\ &= \underline{5.5 \text{ days}} \end{aligned}$$

STEP 4

Use the given information to determine E (Annual basic salary as at the last day of duty).

STEP 5

Compute the cash value of leave credits available in the following manner:

$$\begin{aligned} &\frac{\{(A - B) + (C - D)\}^4 \times E}{260.714} \\ \text{Cash value} &= \frac{\{(22 - 10) + (5.5 - 0)\} \times R75\,000}{260.714} \\ &= \frac{(12 + 5.5) \times R75\,000}{260.714} \\ &= \frac{17.5 \times R75\,000}{260.714} \\ &= \underline{R5034.25} \end{aligned}$$

⁴ The sum total of A – B and C - D must not exceed the maximum number days annual leave an employee is entitled to as depicted in Annexure A to this Directive.

NOTE:

The pro rata leave credits in this EXAMPLE derives from the leave credits in the current leave cycle beginning from 1 January 2003 to 31 March 2003.

EXAMPLE 2

The employee resigns with effect from 1 November 2003, the basic salary on the last day of duty is R75 000, he falls in the 30 working day leave category and taken at least 5 working days' leave.

The cash value in respect of unused leave credit should be computed in the following manner:

$$\frac{\{(A - B)^5 + (C - D)\} \times E}{260.714}$$

Where:

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

where:

X = represents the number of completed months in the current leave cycle; and

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

B = represents the leave taken in the previous leave cycle

C = represents the pro rata leave entitlement in the current leave cycle (Calculated according to the formula in A above)

D = Leave taken in the current leave cycle

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

STEP 1

Determine C using the following formula:

$$\frac{X \times Y}{12}$$

Where –

X = Number of completed months of service in the leave cycle.

⁵ Since the termination of service happens after the expiry of the 6 months period, information on A and B will be represented by 0.

Y = Normal annual entitlement as per Annexure A.

In other words: = $\frac{10 \times 30}{12}$

= 25 days

STEP 2

Use the given information to determine D. (Leave taken in the current leave cycle).

STEP 3

Compute the cash value of available leave credits using the following formula:

$$\begin{aligned}
 \text{Cash value} &= \frac{\{(A - B)^6 + (C - D)\}^7 \times E}{260.714} \\
 &= \frac{\{(0 - 0) + (25 - 5)\} \times R75\,000}{260.714} \\
 &= \frac{20 \times R75\,000}{260.714} \\
 &= \underline{R\,5753.43}
 \end{aligned}$$

⁶ Since the termination of service happens after the expiry of the 6 months period, information on A and B will be represented by 0.

⁷ The sum total of A – B and C – D must not exceed the maximum number of days annual leave entitlement as depicted in Annexure A of this Directive.

Terminations With Capped Leave

EXAMPLE 3:

If the employee retires or dies or is medically boarded with effect from 1 April 2002, with at least 200 days of capped leave, R75 000 is the basic salary on the last day of duty, falls in the 28 working day category but, due to the employer service delivery requirements, has not been able to use his leave credits in the leave cycle, the cash value payable at termination of service should be computed as follows:

$$\frac{\{(A - B) + (C - D) + F\} \times E}{260.714}$$

Where –

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

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. (Calculated according to the formula in A above)

D = Leave taken in the current leave cycle

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

F = Capped leave (30 June 2000 **less** all leave taken from capped leave)

STEP 1

Use the given information on the employee's leave category to determine A. In the event of a full annual leave entitlement, use Annexure A and in the event of a pro rata leave entitlement (in the previous leave cycle)⁸, use the formula in STEP 3 below.

⁸ The pro rata leave entitlement in this regard is in respect of employees appointed after a leave cycle has commenced

STEP 2

Use the given information to determine B (Leave taken in the previous leave cycle) and D (Leave taken in the current leave cycle).

STEP 3

Use the given formula to determine C (pro rata leave credits in the leave cycle beginning 1 January 2002 up to and including the last day of duty).

$$\text{Pro rata leave credits} = \frac{X \times Y}{12}$$

Where –

X = Number of completed months of service in the leave cycle.

Y = Normal annual entitlement as per Annexure A.

$$\begin{aligned} \text{In other words:} &= \frac{3 \times 28}{12} \\ &= \underline{7 \text{ days}} \end{aligned}$$

STEP 4

Convert capped leave into working days using the following formula (if not programmatically done already):

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

Where -

A = Number of audited leave credits

$$\begin{aligned} \text{In other words the converted capped leave credits} &= \frac{200 \times 5}{7} \\ &= \underline{142.86 \text{ converted leave days}} \end{aligned}$$

STEP 5

Compute the cash value of available leave credits in the following manner:

$$\frac{\{(A - B) + (C - D)^9 + F\} \times E}{260.714}$$

$$\text{Cash value} = \frac{((28 - 0) + (7 - 0)) + 142.86}{260.714} \times R75\,000$$

⁹ The sum total of A – B and C – D must not exceed the maximum number of days annual leave an employee is entitled to as depicted in Annexure A of this Directive.

$$\begin{aligned}
 &= \frac{\{(28 + 7) + 142.86\} \times R75\,000}{260.714} \\
 &= \frac{(35 + 142.86) \times R75\,000}{260.714} \\
 &= \frac{177.86 \times R75\,000}{260.714} \\
 &= \underline{R\,51\,165.26}
 \end{aligned}$$

EXAMPLE 4

If the employee retires or dies or is medically boarded on 1 November 2002, with at least 200 days of capped leave, R75 000 is the basic salary on the last day of duty, falls in the 26 working day category but, has used 10 days of his leave credits in the leave cycle, the cash value payable at termination of service should be computed as follows:

$$\frac{\{(A - B)^{10} + (C - D) + F\} \times E}{260.714}$$

Where –

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

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. (Calculated according to the formula in A above)

D = Leave taken in the current leave cycle

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

F = Capped leave (30 June 2000 **less** all leave taken from capped leave)

¹⁰ Since the employee's termination of service happens after the expiry of the 18 months period, leave taken in the previous leave cycle is not relevant hence it is represented by 0 in the calculations.

STEP 1

Determine C (the pro rata leave entitlement in respect of the current leave cycle) using the following formula:

$$\frac{X \times Y}{12}$$

Where –

X = Number of completed months of service in the leave cycle.

Y = Normal annual entitlement as per Annexure A.

$$\begin{aligned} \text{In other words the pro rata leave credits} &= \frac{10 \times 26}{12} \\ &= \underline{21.67 \text{ days}} \end{aligned}$$

STEP 2

Use the given information to determine D (Leave taken in the current leave cycle).

STEP 3

Convert capped leave into working days using the following formula (If not programmatically done already:

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

Where -

A = Number of audited leave credits

$$\begin{aligned} \text{The converted capped leave credits} &= \frac{200 \times 5}{7} \\ &= \underline{142.86 \text{ converted leave days}} \end{aligned}$$

STEP 5

Compute the cash value of available leave credits by using the following formula:

$$\frac{\{(A - B) + (C - D) + F\} \times E}{260.714}$$

$$\text{Cash value} = \frac{\{(0 - 0) + (21.67 - 10) + 142.86\} \times \text{R}75\,000}{260.714}$$

$$= \frac{\{(21.67 - 10) + 142.86\} \times \text{R}75\,000}{260.714}$$

$$= \frac{(11.67 + 142.86) \times R75\,000}{260.714}$$

$$= \frac{154.53 \times R75\,000}{260.714}$$

$$= \underline{R\,44\,453,88}$$

Calculating Over-Granted Annual Leave

EXAMPLE 5

An employee has been over-granted 10 days leave. The employee's basic salary at that stage is R 83 656

$$\frac{A \times B}{260,714}$$

Where-

- A = represents the employee's basic annual salary notch per annum
- B = represents the number of days annual leave over-granted
- 260.714 = represents the number of working days in a year

STEP 1

$$\frac{R\ 83\ 656 \times 10\ \text{days}}{260.714}$$

STEP 2

$$\frac{836560}{260.714}$$

= R3 208,73 (value in Rand of leave days being over-granted)

Note: The value in Rand must not be rounded off. Annual leave over-granted is calculated as working days.

Calculating Unpaid Leave

EXAMPLE 6

An employee has taken 10 days unpaid leave. The employee's basic salary at that stage is R 83 656:

$$\frac{A \times B}{365}$$

Where-

A = represents the employees basic annual salary notch per annum

B = represents the number of days annual leave without pay

365 = number of days in a year

STEP 1

$$\frac{R\ 83\ 656 \times 10\ \text{days}}{365}$$

STEP 2

$$\frac{836560}{365}$$

$$= \underline{R2\ 291,94\ \text{(value in Rand of leave taken without pay)}}$$

Note: The value in Rand must not be rounded off. Leave without pay is calculated as calendar days