



the dpsa

Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

Private Bag X916, PRETORIA, 0001. Tel: (012) 336 1000, Fax: (012) 326 7802
Private Bag X9148, CAPE TOWN, 8000. Tel: (021) 467 5120, Fax: (021) 467 5484

Enquiries : **Ms Fredah Tabane**
Tel No : **012-336 1394**
Fax : **086 527 1245**
File : **17/8/P**

TO HEADS OF NATIONAL AND PROVINCIAL DEPARTMENTS AND PROVINCIAL ADMINISTRATIONS

Circular no 16 of 2018

THE AMENDED DETERMINATION AND DIRECTIVE ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE: IMPLEMENTATION OF PSCBC RESOLUTION 1 OF 2018

1. Following the conclusion of PSCBC Resolution 1 of 2018 the Minister for the Public Service and Administration has determined and directed in terms of Section 3(5)(a) and 5(6)(b), respectively, of the Public Service Act, 1994, as amended:
 - 1.1. the amendment of the Determination and Directive on Leave of Absence in the Public Service (hereafter referred to as the Leave Determination); and
 - 1.2. that the amended provisions in the Leave Determination be extended and applied to the Senior Management Service.
2. The following salient aspects are addressed in the Leave Determination:

2.1 Surrogacy Leave

- 2.1.1 An employee who is a commissioning parent in terms of a surrogate motherhood agreement contemplated in the Children's Act, 2005, will be, with effect from 8 June 2018, entitled to four (4) consecutive months paid surrogacy leave from the date of birth of the child.
- 2.1.2 If both commissioning parents are employed in the public service, only one (1) such parent will qualify for the surrogacy leave.
- 2.1.3 An employee who is a surrogate mother in terms of the Children's Act, 2005 will, with effect from 8 June 2018, be entitled to six (6) consecutive weeks leave after the birth of the child.

- 2.1.4 It is incumbent on an employee who is a commissioning parent or a surrogate mother in terms of a surrogate motherhood agreement contemplated in the Children's Act, 2005 and confirmed by the High Court, to notify an employer in writing at least one (1) month before the child is expected to be born of the date on which the employee intends to commence with the surrogacy leave.
- 2.1.5 An employee's application for surrogacy leave shall be supported by a surrogate motherhood agreement confirmed by the High Court.
- 2.1.6 The leave provisions in respect of temporary employees have been aligned accordingly.
- 2.1.7 Definitions were added in the Leave Determination to define the concepts of "commissioning parent", "surrogate mother" and "surrogate motherhood agreement".

2.2 Shop Steward Leave

- 2.2.1 With effect from 8 June 2018 annual leave taken by a shop steward shall be converted to leave for shop stewards of recognised employee organisations if such shop steward had to perform union activities during such period of annual leave.
- 2.2.2 An affected shop steward must submit a formal request with supporting documentation to substantiate the request.

2.3 Family Responsibility Leave

- 2.3.1 It has further been agreed in clause 5.4.1 of PSCBC Resolution 1 of 2018 that the Employer will issue a directive on the application of the age cap of child without a disability in the granting of family responsibility leave and to circulate such directive within one month of the agreement enjoying a majority.
- 2.3.2 Departments' attention is drawn to the fact that for purposes of the granting of Family Responsibility Leave in respect of a child who is sick (paragraph 24.4.1 of the Leave Determination refers), that such leave shall only be granted in respect of the employee's child who is under the age of eighteen (18) years of age.
- 2.3.3 To eliminate any confusion and to facilitate easy implementation the definition of child, that was previously provided for in paragraph 4 of the Leave Determination, has been moved to paragraph 24.4.2 of the said Determination.
- 2.3.4 Departments are reminded that for purposes of family responsibility leave in the event of-
 - 2.3.4.1 the death of the employee's child that "child" is in this context defined as the employee's son or daughter, and where applicable son- or daughter-in-law, of any age (paragraph 24.5 of the Leave Determination refers); and
 - 2.3.4.2 an employee having a child with special needs "child" is for purposes of this Family Responsibility Leave defined as the employee's son or

daughter of any age (paragraph 24.7 of the Leave Determination refers).

3. To provide for the new leave type, i.e. Surrogacy Leave, the leave form (form Z1(a)) has been reviewed and amended. The amended form will be promulgated in the Government Gazette as required in terms of the Public Service Regulations, 2016. Further correspondence in this regard will be issued in due course.
4. The amended Leave Determination is attached for your further attention. The Leave Determination is also available on the DPSA website at www.dpsa.gov.za.



PROFESSOR RICHARD LEVIN
DIRECTOR-GENERAL
DATE: 26/10/18