



DETERMINATION AND DIRECTIVE ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE

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AND ADMINISTRATION**



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PART 1: TRANSITIONAL ARRANGEMENTS TO FACILITATE IMPLEMENTATION OF CHANGES TO THE LEAVE DISPENSATION

1. INTRODUCTION

- 1.1. This Part provides transitional arrangements in respect of those changes effected to the leave system that warrant special attention to facilitate proper/smooth implementation.
- 1.2. This Part must be read in conjunction with Part 4 of this document.

2. TRANSITIONAL ARRANGEMENTS TO FACILITATE IMPLEMENTATION OF PSCBC RESOLUTION 15 OF 2002

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

- 2.1.1. All non-teaching staff at schools and training institutions is, for purposes of annual leave, now categorized in category 3 of Annexure A to this Determination and Directive. Please refer to Part 4 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 made a determination 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 this Determination and Directive.

2.2 Unpaid Leave (Leave without Pay)

The changed factors for reducing annual and sick leave in the event of leave without pay/unpaid leave as contemplated in paragraphs 5.3 and 14.10 of Part 4 of this document will with due consideration to good administration be effected with effect from the leave cycle which commenced on 1 January 2004.

3. TRANSITIONAL ARRANGEMENTS TO EFFECT PSCBC RESOLUTION 1 OF 2007

3.1 ANNUAL LEAVE

3.1.1 Registered/Enrolled Nurses and Nursing Assistants

- a) Registered/enrolled nurses and nursing assistants are, for purposes of annual leave now categorized in category 4(c) of Annexure A to this Determination and Directive. Please refer to Part 4 of this document. Given the fact that this change was introduced in the middle of the current annual leave cycle and that a number of employees concerned already utilised the pre-revised annual leave entitlement, the following transitional arrangements shall apply in the interest of smooth and fair implementation:



- (i) Registered and enrolled nurses and nursing assistants, employed on or before 30 June 2007, may retain their entitlement as per contract.
- (ii) Registered and enrolled nurses and nursing assistants employed on or after 1 July 2007, qualify for the annual leave entitlement as indicated in category 4(c) of Annexure A to this Determination and Directive.

3.1.2. **Contract Workers¹:**

A contract worker qualifies with effect from 1 July 2007, for pro rata leave benefits related to his/her term of contract. Please refer to Part 4 of this Determination and Directive. Since these changes were introduced in the middle of the 2007 annual leave cycle and the 2007/09 sick leave cycle the following transitional arrangements shall apply. :

3.1.2.1. **Annual Leave**

- (a) A contract worker, who was employed on or before 30 June 2007, shall retain his/her entitlements as per contract.
- (b) A contract worker appointed on or after 1 July 2007 qualifies for the pro rata annual leave entitlement as determined in Part 4 of this Determination and Directive.

3.1.2.2. **Sick Leave**

- (a) A contract worker, who was employed on or before 30 June 2007, shall retain his/her leave benefits as per contract.
- (b) A contract worker appointed on or after 1 July 2007 qualifies for the pro rata sick leave benefits as determined in Part 4 of this Determination and Directive.

3.1.2.3. **Maternity Leave**

- (a) A contract worker who was on maternity leave or whose maternity leave commenced on the date of signature of PSCBC Resolution 1 of 2007 shall retain/complete the four months maternity leave.
- (b) A contract worker appointed on or after 1 July 2007 qualifies for the pro rata paid maternity leave benefits as stipulated in Part 4 of this Determination and Directive.

¹ Also refer to the Determination on Learners and Interns.



3.1.2.4. Adoption Leave

- (a) A contract worker who was on adoption leave or whose adoption leave commenced on the date of signature of PSCBC Resolution 1 of 2007 shall retain/complete the 45 working days paid leave.
- (b) A contract worker appointed on or after 1 July 2007 qualifies for the pro rata paid adoption leave benefits as stipulated in Part 4 of this Determination and Directive.



PART 2: EXPLANATORY NOTES ON THE IMPLEMENTATION OF THE INTEGRATED FINANCIAL MANAGEMENT SYSTEM (IFMS) IN RELATION TO PROVISIONS CONTAINED IN THIS DETERMINATION AND DIRECTIVE

1. INTRODUCTION TO THE IFMS

1.1. The HR domain of the Integrated Financial Management System (IFMS) project is an integral part of the overall IFMS initiative that is aimed at modernising the South African Government's current transversal IT systems. The transversal systems to be implemented as part of the IFMS will, amongst others, support the following functional areas:

1.1.1. Human Resource Management;

1.1.2. Financial Management;

1.1.3. Supply Chain Management including Procurement Management; and

1.1.4. Business Intelligence.

1.2. The IFMS covers the full life cycle of an employee within the organisation which includes:

1.2.1. the establishment of a viable organisational structure to support the strategic objectives of the department; and

1.2.2. the effective planning and sourcing of human resources and the management of the employment relationship within the organisation which includes among others Leave Management and Health and Safety Issues.

These processes are underpinned by effective administration and reporting.

1.3. In addition, with the introduction of the IFMS, an employee self service system is established which will allow employees and their supervisors to perform a number of on-line human resource (HR) transactions such as applying for leave, viewing and updating your personal details, etc. It is envisaged that HR management activities, including decision-making, will be streamlined and enhanced by making relevant management information readily available. This will improve efficiency by eliminating duplication and reducing protracted and costly manual processes.

2. PARAGRAPH BY PARAGRAPH IMPLEMENTATION AND APPLICATION NOTES

2.1. LEAVE ENTITLEMENTS

2.1.1. The work schedules of each individual employee must be implemented on the IFMS to ensure that the employee receives the correct leave entitlements and that the utilisation thereof is managed according to the correct rules and circumstances. Work schedules would in this instance constitute employees prescribed working hours and where applicable shift rosters. It is critical that departments maintain the work schedules regularly to prevent situations where employees are unduly deprived of leave benefits or granted leave benefits not due to them.



2.2. LEAVE APPLICATIONS (EXCLUDING TEMPORARY INCAPACITY LEAVE)

- 2.2.1. Employees having access to the Employee Self Service facility on the IFMS must apply electronically for their leave. Supervisors/Managers/Heads of Department and/or their delegates are required to recommend/not recommend and/or approve/not approve these leave applications electronically. Where employees do not have access to the Employee Self Service, they should apply on manual leave application forms which the Minister for the Public Service and Administration will determine from time to time. The latter arrangement will apply in respect of those departments where the IFMS is not implemented.
- 2.2.2. An employee may be granted annual leave as part of a day or on a pro rata basis as per paragraph 7 of Part 4 of this Determination and Directive. Employees having access to the Employee Self Service facility may apply for leave for part of a day or on a pro rata basis electronically, i.e. annual leave, normal sick leave, family responsibility leave, pre-natal leave, shop stewards leave contemplated in Part 4 of this Determination and Directive. Where employees do not have access to the Employee Self Service facility in departments where the IFMS is implemented, such employees should apply for such leave on the new Z1 (a) leave form for capturing on the IFMS. Departments that are not on the IFMS should continue to keep manual records in instances where the employee utilises leave for part of a day or on a pro rata basis. No formal applications for such annual leave were determined in the past. For purposes of proper administration and management of annual leave utilised for part of a day or on a pro rata basis employees should in future apply for such leave on the new Z1(a) leave form.



PART 3: IMPLEMENTATION NOTES ON THE APPLICATION OF THE DETERMINATION AND DIRECTIVE ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE

1. GENERAL

- 1.1. Additional definitions were added, i.e. commissioning parent, month, surrogate mother, surrogate motherhood agreement and work day to assist with the interpretation and application of this Determination and Directive.

2. ANNUAL LEAVE

2.1. GENERAL

- 2.1.1. Additional provisions were included to improve the effective and efficient management of annual leave generally and in particular that of shift workers.

2.2. ANNUAL LEAVE ENTITLEMENT

- 2.2.1. It has been agreed in PSCBC Res 1 of 2012 that as part of long service recognition at attaining 10 years service an employee's annual leave entitlement increases from 26 to 30 working days in the leave cycle. Annexure A to this Determination and Directive has been amended to this extent.
- 2.2.2. Employees appointed prior to 1 July 1966 and employees of the former Provincial Administrations and Development Boards (excluding nursing staff) who were taken over by the Public Service in 1986, 1987 and 1989 respectively and who previously qualified for 38 days annual leave in terms of the Special PAS" were entitled to 28 working days annual leave. In the light of the increase of the annual leave entitlement to 30 working days, the paragraph that dealt with the annual leave of employees who were taken over from the former Provincial Administrations and Development Boards and this leave category in Annexure A became superfluous and is thus deleted.
- 2.2.3. Employees who have completed 10 years service on a date prior to the signing of PSCBC Res 1 of 2012 are also eligible to 30 working days as depicted in Annexure A.
- 2.2.4. Since the annual leave entitlement is increased in the course of the 2012 annual leave cycle, Departments are urged to review leave schedules with the aim of ensuring that employees utilise their leave entitlement before the end of June 2013 (that is the end of the grace period for the 2012 leave cycle) and to avoid unnecessary claims for leave payouts.

2.3. ANNUAL LEAVE WITH FULL PAY GRANTED IN EXCESS

- 2.3.1. This Determination and Directive provides that 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/her credit at that time; such over-grant must be deducted from the subsequent leave cycle. In order for such a correction to be effected on PERSAL and IFMS, the Head of Department must have certified that the error was bona



vide in nature. A copy of this letter or submission must be presented with the system change control for the correction of the error.

3. NORMAL SICK LEAVE AND INCAPACITY LEAVE

- 3.1. Additional provisions are included to improve the effective and efficient management of normal sick leave and incapacity leave generally. To this end your attention is drawn to the-
- 3.1.1. time frames included for supervisors to dispose of sick and incapacity leave applications;
 - 3.1.2. provisions in respect of the management of shift workers' sick and incapacity leave;
 - 3.1.3. management of sick leave credits on transfer and change in employment status; and
 - 3.1.4. management of incapacity leave applications of deceased employees.

4. ADOPTION LEAVE

- 4.1. Part 4 of this Determination and Directive provides amongst others that an employee, who adopts a child that is younger than two years, shall qualify for adoption leave to a maximum of 45 working days. For purposes of the interpretation and application of this provision specific attention is drawn to section 228 of the Children's Act, 2005 which stipulates that a child is adopted if the child has been placed in the permanent care of a person in terms of a court order that has the effects contemplated in section 242. Section 242 of the Children's Act, 2005 stipulates amongst others that -
- 4.1.1. An adoption order, amongst others, confers-
 - (a) full parental responsibilities and rights in respect of the adopted child upon the adoptive parent; and
 - (b) the surname of the adoptive parent on the adopted child, except when otherwise provided in the order.
 - 4.1.2. An adopted child must for all purposes be regarded as the child of the adoptive parent and an adoptive parent must for all purposes be regarded as the parent of the adopted child.
- 4.2. Therefore, an eligible employee should provide the Department with a certified copy of the adoption order to access the adoption leave benefits.

5. SURROGACY LEAVE

- 5.1. Part 4 of this Determination and Directive provides amongst others that an employee, who is a commissioning parent in terms of a surrogate motherhood agreement confirmed by the High Court as contemplated in the Children's Act, 2005, is entitled to four consecutive months paid leave commencing from the date of the birth of the child. For purposes of the interpretation and application of this provision specific attention is drawn to section 292 of



the Children's Act, 2005 which stipulates that any child born of a surrogate mother in accordance with the agreement is for all purposes the child of the commissioning parent or parents from the moment of the birth of the child concerned that has the effects contemplated in section 297.

- 5.2. Section 297 of the Children's Act, 2005 stipulates amongst others that the effect of a valid surrogate motherhood agreement is that-
 - 5.2.1. any child born of a surrogate mother in accordance with the agreement is for all purposes the child of the commissioning parent or parents from the moment of the birth of the child concerned;
 - 5.2.2. the surrogate mother is obliged to hand the child over to the commissioning parent or parents as soon as is reasonably possible after the birth;
 - 5.2.3. the surrogate mother or her husband, partner or relatives has no rights of parenthood or care of the child;
 - 5.2.4. the surrogate mother or her husband, partner or relatives have no right of contact with the child unless provided for in the agreement between the parties;
 - 5.2.5. subject to sections 292 and 293, the surrogate motherhood agreement may not be terminated after the artificial fertilisation of the surrogate mother has taken place; and
 - 5.2.6. the child will have no claim for maintenance or of succession against the surrogate mother, her husband or partner or any of their relatives.
- 5.3. In terms of section 292 (1) of the Children's Act, 2005 no surrogate motherhood agreement is valid unless –
 - 5.3.1. The agreement is in writing and is signed by all the parties thereto;
 - 5.3.2. The agreement is entered into in the Republic;
 - 5.3.3. At least one of the commissioning parents, or where the commissioning parent is a single person, that person, is at the time of entering into the agreement domiciled in the Republic;
 - 5.3.4. The surrogate mother and her husband or partner, if any, are at the time of entering into the agreement domiciled in the Republic; and
 - 5.3.5. The agreement is confirmed by the High Court within whose area of jurisdiction the commissioning parent or parents are domiciled or habitually resident.
- 5.4. Any surrogate motherhood agreement that does not comply with the provisions of this Act is invalid and any child born as a result of any action taken in execution of such an arrangement is for all purposes deemed to be the child of the woman that gave birth to that child.



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- 5.5. Therefore, an eligible employee should provide the Department with a certified copy of the surrogate motherhood agreement confirmed by the High Court to access the surrogate leave benefits.

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

- 6.1. With effect from 1 January 2013 the provisions in paragraph 25.1 of Part 4 of this Determination and Directive will cease to exist. Henceforth office bearers and shop stewards of recognised employee organisations shall receive 15 working days paid leave per annum for activities related to his/her union position.
- 6.2. The 15 working days shall be pooled per recognised trade union. Office bearers or shop stewards belonging to the same recognised trade union may apply for leave days from the pool.
- 6.3. In other words if there are 10 shop stewards in the Department of which 4 belong for example to the PSA and 6 to NEHAWU-
- 6.3.1. The 15 working days of each of the 4 shop stewards belonging to the PSA will be pooled into a pool of 60 working days (4 x15); and
- 6.3.2. The 15 working days of each of the 6 shop stewards belonging to NEHAWU will be pooled into a pool of 90 working days (6x15).
- 6.4. With effect from 8 June 2018, if a shop steward of a recognised employee organisation has to perform union activities while on annual leave with full pay, such annual leave shall be converted to shop steward leave, provided that a formal request with supporting documentary evidence are submitted substantiating that he/she had to perform union activities.



PART 4: DETERMINATION AND DIRECTIVE ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE

1. SCOPE

- 1.1. Except for explicit exclusions by the Basic Conditions of Employment Act, 1997, this Determination and Directive is applicable to all those that are employed either on full-time, part-time, permanent or temporary basis in terms of the Public Service Act and fall within the scope of the PSCBC.
- 1.2. This Determination and Directive gives effect to clause 7 of PSCBC Resolution 7 of 2000, as amended by PSCBC Resolutions 5 of 2001, 15 of 2002; 1 of 2007, 1 of 2012 and 2 of 2015.

2. AUTHORISATION

This Determination and Directive is made by the Minister for the Public Service and Administration in terms of the provisions of section 3(5) (a) and 5 (6) (b) of the Public Service Act, 1994 as amended.

3. PURPOSE

- 3.1. The purpose of this Determination and Directive is to give effect to, elucidate or supplement relevant collective agreements on--
 - 3.1.1. the types of leave and circumstances under which the employer may consider authorizing an employee's absence from work; and
 - 3.1.2. an employee's leave entitlement and conditions that the employee must adhere to access the said entitlement.

4. DEFINITIONS

- 4.1. "Annual leave cycle" or "Calendar year" means from 1 January to 31 December of each year;
- 4.2. "Calendar month(s)" means a calendar month as defined in section 1 of the Public Service Act, 1994.
- 4.3. "Casual worker" means a person employed on a day-to-day basis who is paid a daily wage and who does not work more than 24 hours a month.
- 4.4. "Commissioning parent" means a person who enters into a surrogate motherhood agreement with a surrogate mother.
- 4.5. "Contract worker" means a person employed on a temporary basis².

² Refer also to clause 11 of PSCBC Res 1 of 2007



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- 4.6. “Head of Department” means the Head of Department or his/her delegated authority or his/her designated office responsible for leave related matters and/or investigations.
- 4.7. “Month” means a month as defined in section 1 of the Public Service Act, 1994.
- 4.8. “Remuneration” means-
- 4.8.1. in respect of employees on level 1 to 10 or equivalent Occupational Specific Dispensation levels: –
- 4.8.1.1. for purposes of calculating pay for unused annual leave and severance pay, remuneration means the employee’s annual basic salary PLUS 37% of his/her annual basic salary; and
- 4.8.1.2. for purposes of calculating capped leave and unpaid leave, remuneration means the employee’s annual basic salary.
- 4.8.2. in respect of a member of the Middle Management Service (MMS or equivalent Occupational Specific Dispensation levels):
- 4.8.2.1. for purposes of calculating pay for unused annual leave, unpaid leave and severance pay, remuneration means the employee’s all inclusive remuneration package; and
- 4.8.2.2. for purposes of calculating capped leave, remuneration means the employee’s annual basic salary.
- 4.9. “Surrogate mother” means an adult woman who enters into a surrogate motherhood agreement with the commissioning parent.
- 4.10. “Surrogate motherhood agreement” means a valid agreement in terms of section 292 of the Children’s Act between a surrogate mother and a commissioning parent in which it is agreed that the surrogate mother will be artificially fertilised for the purpose of bearing a child for the commissioning parent and in which the surrogate mother undertakes to hand over such a child to the commissioning parent upon its birth, or within a reasonable time thereafter, with the intention that the child concerned becomes the legitimate child of the commissioning parent.
- 4.11. “Work day” equates to the employee’s number of daily official working hours.

5. ANNUAL LEAVE

- 5.1. Employees are entitled to annual leave with full pay during each leave cycle of 12 months, commencing on 1 January of each year, in terms of Annexure A³, except if appointed after 1 January of each year. The annual leave entitlement of an employee appointed after 1 January of each year shall be calculated proportionally in relation to each full month of service at a rate of 1, 83 working days if entitled to 22 working days and 2, 5 working days if entitled to 30 working days annual leave in a leave cycle.⁴

³ Refer to Part 2 for the explanatory note on the application of this provision in relation to the IFMS and Part 3 for implementation notes.

⁴ Circular E/1/2/2/P dated 18 April 2001.



- 5.2. Annual leave should be planned and scheduled at least at the start of a leave cycle, i.e. January of each year.
- 5.3. For each 15 consecutive calendar days leave taken without pay, the employees' annual leave entitlement shall be reduced by 1/24th.
- 5.4. For the purpose of granting annual leave, working days shall mean Monday to Friday except for a shift worker for whom a working day means the day(s) she/he is scheduled for a shift in terms of their shift roster inclusive of Public Holidays, Saturdays and Sundays.
- 5.5. 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.
- 5.6. 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.
- 5.7. An employee must submit his/her application for annual leave in advance, unless unforeseen circumstances prevent him/her from doing so.⁵
- 5.8. If confronted with unforeseen circumstances which necessitate the utilization of annual leave, the employee must personally notify his/her supervisor/manager immediately. A verbal message to the supervisor/manager by a relative, fellow employee or friend is only acceptable if the nature and/or extent of the unforeseen circumstances prevents the employee from informing the supervisor/manager personally.
- 5.9. An employee must submit an application for annual leave personally or through a relative, fellow employee within 5 working days after the first day of absence. If the employee fails to submit the application on time or compelling reasons why an application cannot be submitted, the supervisor/manager must immediately-
 - 5.9.1. notify the employee that if such application is not received within 2 working days, the leave period will be regarded as unpaid leave; and
 - 5.9.2. inform the Human Resource division, should the employee default on the notification referred to in par 5.9.1, above,and the relevant authority shall approve such absence as unpaid leave. The employee's supervisor/manager/ Head of Department and/or his/her delegate must within two working days from receipt of the leave application form recommend/not recommend and/or approve/disapprove this leave application and submit to the relevant Human Resource division in the department.
- 5.10. Failure by the employee to submit his/her application form within the stated periods, or failure by the supervisor/manager to properly manage it, must be viewed in a serious light and disciplinary steps against the employee and/or supervisor/manager should be taken.
- 5.11. Employees must be cautioned timeously if, at the end of the relevant leave cycle, they have not utilised their leave entitlements.

⁵ Refer to Part 2 for the explanatory note on the application of this provision in relation to the IFMS



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- 5.12. 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.
- 5.13. Any refusal of annual leave must be confirmed in writing, stating the reasons and arrangements for rescheduling of the annual leave.
- 5.14. 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 5.6 above. Employee requests for payment of unused leave credits must be:
- 5.14.1. in writing; and
- 5.14.2. accompanied by written proof of refusal of leave by the Head of Department.
- 5.15. With effect from 31 January 2018 employees, suspended as a precautionary measure while investigations into allegations of misconduct are being completed or employees who have been suspended as a sanction as a result of misconduct within the 6 months (paragraph 5.6 above refers) after the expiry of the relevant leave cycle and who could not utilise their unused annual leave credits, must upon request, be paid out such annual leave credits at the end of the 6 months' period referred to in 5.6 above. Employee requests for payment of unused leave credits must be-
- 5.15.1. in writing; and
- 5.15.2. accompanied by written proof of suspension.
- 5.16. 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.
- 5.17. 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.

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

- 6.1. All non-teaching staff at schools and training institutions is, for purposes of annual leave, accommodated in category 3 of Annexure A.
- 6.2. Non-teaching staff at schools and training institutions must take at least 22 of the 27 or 30 working days annual leave, whichever is applicable, during the period for which a school/training institution closes for the holidays. The remaining 5 or 8 days, whichever is applicable, may be taken when the institution is in operation.
- 6.3. 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.

- 6.4. 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.
- 6.5. With due regard to the principles of fairness and equality-
 - 6.5.1. 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.
 - 6.5.2. 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.
 - 6.5.3. Planning and scheduling should take place in collaboration with the head of the institution and the employees concerned.
 - 6.5.4. As for periods of time off during institution holidays the following could be taken into account-
 - 6.5.4.1. For the concept of 'if an employee is not required at the institution during the period(s)' refer to paragraph 6.3. 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 a direct bearing on operational/ service delivery requirements of that institution.
 - 6.5.4.2. Attention needs to be given to activities or services that need to take place or be delivered during the period when the school/institution closes for holidays.
 - 6.5.4.3. It could be considered to schedule and present formal training for all non-teaching members of staff during some of these periods.
 - 6.5.4.4. 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 or services have to be rendered.
 - 6.5.4.5. 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.
 - 6.5.4.6. 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**.
 - 6.5.4.7. It is important to make sure that non-teaching staff is retained on duty during institution holidays, only for valid official duty.



6.5.5. For purposes of paragraphs 6.1 to 6.4 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.

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

- 7.1. 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.
- 7.2. 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.
- 7.3. Departments must keep manual records of the utilisation of annual leave taken for part of a day. After reaching the prescribed daily number of working hours, the employee must complete and submit a leave form.⁶
- 7.4. For purposes of converting fractions/decimals of leave entitlements into working hours the following formula(s) should apply:

Converting fractions into hours:

$$A \times B = C$$

Where-

A = represents the number of working hours in a day

B = represents the fraction

C = represents the credit in hours

For example: Employee with 7, 45 leave credits on an 8 hour working day:

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

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 Refer to Part 2 for an explanatory note on the application of this provision in relation to the IFMS



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- 7.5. For purposes of leave payouts, fractions or decimals must be used as they are in the formula provided for in paragraphs 9.4 and 10.4 of this Determination and Directive.
 - 7.6. Unused fractions and decimals lapse at the end of the six months period referred to in paragraph 5.6 above.
 - 7.7. If an employee's annual leave entitlements changes, e.g. from 22 to 30 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.

8. MANAGEMENT OF ANNUAL LEAVE FOR SHIFT WORKERS

- 8.1. The provisions contained in the paragraphs above apply mutatis mutandis to shift workers, suffice to indicate that specific provisions are required to enable departments employing shift workers to manage their annual leave more efficiently and effectively given their peculiar working hour arrangements.
- 8.2. Annual leave should be planned and scheduled, as far as possible, at the beginning of a leave cycle, i.e. January of each year in conjunction with the shift roster.⁷
- 8.3. As in the case of other employees, utilising annual leave counts towards the completion of an employee's prescribed work week.
- 8.4. If an employee takes unplanned annual leave for a day(s) he/she was scheduled for a shift-
 - 8.4.1. the employee's annual leave is counted according to the work days the employee is scheduled for shifts;
 - 8.4.2. he/she does not forfeit the off duty periods (conversely referred to as off days) that results from the design of the shift roster.
- 8.5. If the employee applies for annual leave in advance in accordance with the leave schedule such leave must be taken into account in the scheduling of shifts. The employee must not be scheduled for (a) shift(s) for the duration of the period of annual leave in which case the granting of annual leave will be counted as working days which shall mean Monday to Friday.

9. ANNUAL LEAVE AND PAYOUTS

- 9.1. Employees shall be paid a cash value in respect of unused leave credit upon termination of service and in terms of paragraph 5.14 and 5.15 above. The payment will be limited to a maximum number of days, equivalent to the annual leave entitlements in Annexure A.
- 9.2. The leave cycle remains unchanged, therefore, requests and motivations for leave payments in respect of leave credits mentioned in 5.14 and 5.15 above shall be lodged by no later than 31 July in respect of each year. If an employee failed to apply for the payment of such unused leave credits at the aforementioned due date such unused leave credits shall be forfeited.

⁷ Refer to Part 2 for the explanatory note on the application of this provision in relation to the IFMS



- 9.3. Payment of annual leave credits shall be calculated using the employee's remuneration.
- 9.4. For all terminations in respect of personnel without any capped leave, leave pay-outs 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

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

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 remuneration (levels 1 to 10: annual basic salary plus 37% and MMS, the all inclusive package) at the last day of duty or at the end of the 6 months period mentioned in 5.6 above.

- 9.5. For personnel who still have unused leave credits at the expiry of the 6 months period mentioned in 5.6 above and who complied with the provisions of paragraph 5.14 and 5.15 above, leave pay-outs shall be computed in terms of the following formula:

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

Where-

A = represents the full annual or pro rata leave entitlement in the previous leave cycle. Pro rata entitlement calculated as

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

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 employee's remuneration (levels 1 to 10: annual basic salary plus 37% and the MMS the all inclusive package) at the last day of duty or at the end of the 6 months period mentioned in 5.6 above.

NOTE: For computed EXAMPLES, please refer to Annexure B

9.6. Employees who have been on suspension-

9.6.1. On or after 31 July 2016 and who has unused annual leave credits which s/he could not use as a result of the suspension in respect of the previous leave and/or expired previous leave cycles may make a written request for a leave payout in respect of such unused annual leave credits; and/or

9.6.2. Subsequently, dismissed shall also receive a leave payout for the unused annual leave credits in respect of the previous leave and/or expired previous leave cycles which s/he could not use as a result of the suspension.

9.6.3. Effective from 31 January 2018.

10. ANNUAL LEAVE ACCRUED PRIOR TO 1 JULY 2000

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

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

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

Where -

A = represents the number of audited leave credits

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

10.3.1. Death;

10.3.2. Retirement; or

10.3.3. Medical boarding.

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

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

Where:

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



- B = represents the leave taken in the previous leave cycle.
- C = represents the pro rata leave entitlement in the current leave cycle.
- D = represents the leave taken in the current leave cycle.
- E = represents the employee's remuneration (levels 1-10 annual basic salary plus 37% and MMS the all inclusive remuneration package) as at the last day of duty.
- F = represents the capped leave.
- G = represents the employee's remuneration (levels 1-10 and MMS the annual basic salary only) as at the last day of duty.

NOTE: For computed EXAMPLES, please refer to Annexure B.

- 10.5. 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 10.4 above.
- 10.6. 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.

11. **NOMINATION OF BENEFICIARIES AND LEAVE PAYOUTS**

- 11.1. 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.
- 11.2. If an employee dies and has not nominated a beneficiary, the leave payout may be paid:
- 11.2.1. In full to the spouse/life partner of that employee; or
 - 11.2.2. 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/her death, were fully dependent on the employee; or
 - 11.2.3. If there are no children, to the employee's estate.

12. **ANNUAL LEAVE WITH FULL PAY GRANTED IN EXCESS**

- 12.1. 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.



- 12.2. 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/her credit at that time, such over-grant must be deducted from the subsequent leave cycle.⁸
- 12.3. 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/her normal annual, leave credit on his/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 employee's remuneration (Levels 1-10: annual basic salary plus 37% and MMS the, all-inclusive package)

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

- 12.4. 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 12.3 above shall apply.

13. ANNUAL LEAVE: GENERAL PROVISIONS

- 13.1. 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 Determination and Directive.
- 13.2. 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 Determination and Directive.
- 13.3. The provisions in paragraphs 13.1 and 13.2 apply mutatis mutandis in the case of employees who are appointed on contract and who secures a permanent appointment in the Public Service and vice versa.
- 13.4. 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 13.2 if they qualify after the first day of the month for the new category of leave.

⁸ Refer to Part 3 for implementation notes.



14. NORMAL SICK LEAVE⁹

- 14.1. An employee is entitled to 36 working days sick leave with full pay over a three-year cycle. Any unused sick leave credits shall lapse at the expiry of the three-year cycle.
- 14.2. It is incumbent on the employee to utilise and manage his/her normal sick leave responsibly and with circumspect.
- 14.3. An employee must submit his/her application for sick leave in respect of clinical procedures in advance, unless the treating practitioner certifies that such procedures have to be conducted as an emergency.
- 14.4. If overcome by a sudden illness or injury, the employee must personally notify his/her supervisor/manager immediately. A verbal message to the supervisor/manager by a relative, fellow employee or friend is only acceptable if the nature and/or extent of the illness/injury prevents the employee to inform the supervisor/manager personally.
- 14.5. An employee must submit an application for sick leave personally or through a relative, fellow employee within 5 working days after the first day of absence. The employee's supervisor/manager/ Head of Department and/or his/her delegate/must within two working days from receipt of the leave application form recommend/not recommend and/or approve/disapprove the application and submit to the relevant Human Resource division in the department.
- 14.6. If the employee fails to submit an application within the period indicated in paragraph 14.5, above, the following arrangements apply:
 - 14.6.1. The employee's manager/supervisor must immediately notify the employee that if such application is not received within 2 working days, the leave period will be regarded as unpaid leave or annual leave. If the employee fails to submit the application on time or compelling reasons why an application cannot be submitted, the supervisor/manager must immediately inform the Human Resource division and the relevant authority shall approve such absence as unpaid leave or annual leave if the employee consents. The employee's supervisor/manager/ Head of Departments and/or his/her delegate must within two working days from receipt of the leave application form recommend/not recommend and/or approve/disapprove this leave application and submit to the relevant Human Resource division in the department.
 - 14.6.2. Failure by the employee to submit his/her application form within the stated periods, or failure by the supervisor/manager to properly manage it, must be viewed in a serious light and disciplinary steps against the employee and/or supervisor/manager should be taken.
- 14.7. An employee must submit a medical certificate in respect of his/her sick absence for every occasion of 3 or more sick leave days, issued and signed by a practitioner or person listed in paragraph 17.1 hereunder.

⁹ Refer to Part 3 for implementation notes.



14.8. If -

- 14.8.1. the employer establishes a pattern/trend in the employee's utilisation of normal sick leave, the employer must require the employee to submit a medical certificate from a practitioner or person listed in paragraph 17.1 hereunder, for periods of sick absences of less than 3 days; and
- 14.8.2. an employee during his/her normal sick leave period, **who has been absent from work on more than two occasions during an eight-week period**, must regardless of the duration of the sickness or injury, submit a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury. The 8-week period shall be a calendar period and commences on the first day of an employee's absence due to sickness or injury. Any subsequent day of absence due to sickness or injury after the above-mentioned period must then be regarded as the first day of the next 8-week period. If the employee fails to submit the required medical certificate, the Head of Department must notify the employee that if the prescribed medical certificate is not received within 2 working days, the sick leave period will be regarded as unpaid leave or annual leave. If the employee fails to submit the medical certificate on time, the relevant absence must be covered by annual leave (with the employee's consent) and/or unpaid leave if insufficient annual leave credits are available or if the employee failed to notify the Head of Department of his/her choice. Failure by the employee to submit his/her medical certificate within the stated period must be viewed in a serious light and disciplinary steps against the employee should be taken.
- 14.8.3. Sick leave may also be granted in respect of periods where an employee must be quarantined or isolated for at least 10 consecutive days.
- 14.9. If an employee falls ill while on annual leave with full pay, such leave may be converted to sick leave provided that a certificate from a registered medical practitioner or person listed in paragraph 17.1 hereunder is submitted to substantiate that he/she is ill.
- 14.10. For every 15 consecutive calendar days leave taken without pay, an employee's sick leave entitlement must be reduced by 1/72nd per sick leave cycle.

15. TEMPORARY INCAPACITY LEAVE

- 15.1. Incapacity leave is not an unlimited number of additional sick leave days at an employee's disposal. Incapacity leave is additional sick leave granted conditionally at the employer's discretion, read with the *Policy and Procedure on Incapacity Leave for Ill-health Retirement* determined by the Minister for Public Service and Administration in terms of the Public Service Act, 1994, (hereafter referred to as PILIR).
- 15.2. An employee who has exhausted his/her normal sick leave, referred to in paragraph 14 above, during the prescribed sick leave cycle and who according to the treating medical practitioner requires to be absent from work due to a temporary incapacity, may apply for temporary incapacity leave with full pay on the applicable application form prescribed in terms of PILIR in respect of each occasion.
- 15.3. For an employee's application for temporary incapacity leave to be considered, the-



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- 15.3.1. employee must submit sufficient proof that she/he is too ill or injured to perform his/her work satisfactorily;
 - 15.3.2. application form must, regardless the period of absence, be accompanied by a medical certificate issued and signed by a medical practitioner that certifies his/her condition as temporary incapacity and if the employee has consented, the nature and extent of the illness or injury. Please also refer to paragraph 17 in respect of the acceptance of medical certificates;
 - 15.3.3. employee is in accordance with item 10(1) of Schedule 8 to the Labour Relations Act, 1995, afforded the opportunity to submit together with his/her application form-
 - a) any medical evidence related to the medical condition of the employee, such as (a) medical report(s) from a specialist, blood tests results, x-ray results or scan results, obtained at the employee's expense; and
 - b) any additional written motivation supporting his/her application; and
 - 15.3.4. employee is requested to give his/her consent that medical information/records be disclosed to the employer and/or its Health Risk Manager¹⁰ and to undergo further medical examinations in terms of the assessment process described in PILIR.
 - 15.4. An employee must submit his/her application for temporary incapacity leave in respect of clinical procedures in advance, unless the treating medical practitioner certifies that such procedures have to be conducted as an emergency.
 - 15.5. If overcome by a sudden illness or injury, the employee must personally notify his/her supervisor/manager **immediately**. A verbal message to the supervisor/manager by a relative, fellow employee or friend is only acceptable if the nature and/or extent of the illness or injury prevents the employee to inform the supervisor/manager personally.
 - 15.6. An employee must submit an application for temporary incapacity leave personally or through a relative, fellow employee or friend within 5 working days after the first day of absence. The employee's supervisor or delegate must within two working days from receipt of the leave application form recommend/ not recommend the application and submit to the relevant Human Resource division in the department.
 - 15.7. If the employee fails to submit an application within the period indicated in paragraph 15.6, the following arrangements apply:
 - 15.7.1. The employee's manager/supervisor must immediately notify the employee that if such application is not received within 2 working days, the sick leave period will be regarded as unpaid leave or annual leave. If the employee fails to submit the application on time or compelling reasons why an application cannot be submitted, the supervisor/manager must immediately inform the Human Resource division and the relevant authority shall approve such absence as unpaid leave or annual leave if the employee consents. The employee's supervisor/manager/ Head of

¹⁰ The Health Risk Manager is a company of multi-disciplinary medical experts, specializing in occupational medicine, which will be appointed by the **dpsa** and National Treasury. The Health Risk Manager will assess and advise the HOD in respect of an employee's application for *inter alia* incapacity leave.



Department and/or his/her delegate must within two working days from receipt of the leave application form recommend/not recommend and/or approve disapprove this leave application and submit to the relevant Human Resource division in the department.

- 15.7.2. Failure by the employee to provide his/her application form within the stated periods, or failure by the supervisor/manager to properly manage it, must be viewed in a serious light and disciplinary steps should be taken.
- 15.8. The Head of Department, must within 5 working days from the receipt of the employee's application for temporary incapacity leave-
- 15.8.1. **conditionally** grant a maximum of 30 consecutive working days temporary incapacity leave with full pay subject to the outcome of his/her investigation into the nature and extent of the employee's illness/injury; and
- 15.8.2. refer the application with all the supporting evidence **immediately** to its Health Risk Manager in accordance with the PILIR for an assessment and advice-
- (a) on whether the employee's illness or injury justifies the granting of incapacity leave ; *and*
- (b) which steps, if any, in accordance with the procedures contained in item 10(1) of Schedule 8 to the Labour Relations Act, 1995, read with clause 7.5.1 of PSCBC Resolution 7 of 2000, as amended by PSCBC Resolutions 5 of 2001 and 15 of 2002, are necessary;
- 15.9. The Head of Department may request the employee, if s/he has consented thereto in his/her application form, as part of the process contemplated in sub-paragraph 15.8.2, above, to subject him/herself for one or more medical examinations by medical practitioners of the employer's choice and for the employer's account. If the employee fails to honour the appointments for such medical examinations, the employee shall be held responsible for any fruitless expenses incurred.
- 15.10. The Head of Department must within 30 working days after receipt of both the application form and medical certificate referred to in paragraph 15.3.2, approve or refuse the temporary incapacity leave granted conditionally. In making a decision, the Head of Department must apply his/her mind to the medical certificate (with or without describing the nature and extent of the illness or injury) contemplated in paragraph 15.3.2, medical information/records contemplated in paragraph 15.3.4 (if the employee consented to disclosure), the Health Risk Manager's advice, the information supplied by the employee in terms of paragraph 15.3.3 (if any) and all other relevant information available to the Head of Department and based thereon approve or refuse the temporary incapacity leave granted conditionally, on conditions that the Head of Department may determine, e.g. to return to work, etc.
- 15.11. The Head of Department may on the basis of medical evidence gathered during its investigation approve the granting of additional incapacity leave days on conditions that he or she shall determine. The Head of Department may for this purpose grant conditionally further temporary incapacity leave.



15.12. The Head of Department, if applicable and as soon as possible, must after the receipt of the Health Risk Manager's advice, decide on the possibility of securing alternative employment for the employee, or adapting his/her duties or work circumstances to accommodate his/her incapacity or alternative employment and, as soon as possible, approve and implement an action plan for this purpose.

15.13. If the Head of Department-

15.13.1. approves the temporary incapacity leave granted conditionally, such leave must be converted into temporary incapacity leave; or

15.13.2. refuses the temporary incapacity leave granted conditionally, s/he must notify the employee in writing-

(a) of the refusal;

(b) of the reasons for the refusal;

(c) that s/he must notify the Head of Department in writing within 5 working days of the date of the notice to him/her, whether or not the period of conditional incapacity leave must be covered by annual leave (to the extent of the available annual leave credits) or unpaid leave and that, if s/he fails to notify the Head of Department of his/her choice, the period will be covered by unpaid leave; and

(d) the employee may, if he/she is not satisfied with the Head of Department's decision, lodge a grievance in terms of section 35 of the Public Service Act.

15.14. The Head of Department must cover the period of absence, referred to in paragraph 15.13.2 (c) in accordance with the employee's written notification or, if the employee fails to notify that the Head of Department in terms of that paragraph or the annual leave credits are insufficient, the relevant period of absence must be covered by unpaid leave.

15.15. In instances where incapacity leave is declined which originated in the previous leave cycle, an employee has the option to have the period covered by unpaid leave or to request that annual leave of the current leave cycle be utilised to offset the declined incapacity leave.

15.16. As regards the management of shift workers pertaining to normal sick leave and temporary incapacity leave the provisions contained in paragraph 8, above, apply *mutatis mutandis*.

15.17. If an employee passes away after submitting an application for temporary incapacity leave a decision on such application must be made where the information provided is sufficient. However, where a decision cannot be made due to a lack of information the Head of Department or his/her delegate must approve such application for temporary incapacity leave and close the application. Any decision must take into account the recommendation from the Health Risk Manager.



16. PERMANENT INCAPACITY LEAVE

- 16.1. An employee shall not directly access or apply for permanent incapacity leave. The Head of Department may grant an employee up to a maximum of 30 working days' permanent incapacity leave once she/he has, following the assessment and investigations contemplated in par. 15.8.2, determined that the employee's condition is of a permanent nature.
- 16.2. The Head of Department must during the period referred to in paragraph 16.1 and in accordance with the advice from its Health Risk Manager ascertain the feasibility of and implement its plan of action contemplated in paragraph 15.12., above, in respect of-
 - 16.2.1. alternative employment; or
 - 16.2.2. adapting duties or work circumstances to accommodate the employee.
- 16.3. An employee, whose degree of incapacity has been certified as permanent but who can still render a service, may be transferred to an alternate appropriate vacant post without a reduction in benefits.
- 16.4. In instances where the employee's transfer entails retraining or retooling, the employer must take requisite resources (time and financial) and potential returns into consideration before approving transfer.
- 16.5. The transfer of an employee should ensure the optimal utilisation of his/her competencies and must not compromise service delivery.
- 16.6. If both the Head of Department and employee are convinced that the employee will never be able to render an effective service, the employee/employer may proceed with the process of termination of service on account of continued ill-health in terms of section 17(2)(a) of the Public Service Act, as amended.
- 16.7. The Head of Department may extend the period of permanent incapacity leave referred to in paragraph 16.1 by a further 30 working days in order to finalise processes already commenced. If the processes set out in this Determination and Directive is not completed within the 60 working days, the Head of Department must report the case to the Director-General: Public Service and Administration together with a report explaining the reasons for the delay.

17. ACCEPTANCE OF MEDICAL CERTIFICATES

- 17.1. For purposes of normal sick leave medical certificates issued and signed by the practitioners and persons **who are certified to diagnose and treat patients and who are registered with the following professional councils** established by an Act of Parliament shall be accepted:
 - 17.1.1. The Health Professions Council of South Africa.
 - 17.1.2. The Allied Health Professions Council of South Africa.
 - 17.1.3. The South African Nursing Council.



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- 17.2. The registration details of service providers could be confirmed with the above-mentioned councils.
 - 17.3. A medical certificate must contain the following information:
 - 17.3.1. The name, address and qualifications of the practitioner or person.
 - 17.3.2. The name of the patient.
 - 17.3.3. The employment number of the patient (if applicable).
 - 17.3.4. The date and time of examination.
 - 17.3.5. Whether the practitioner is issuing the certificate as a result of personal observations during an examination or as the result of information received from the patient and which is based upon acceptable medical grounds.
 - 17.3.6. If the patient has given informed consent for it to be disclosed, a description of the nature and extent of the illness or injury in layperson's language.
 - 17.3.7. Whether the patient is totally indisposed for duty or whether the patient will be able to perform less strenuous duties in the work situation.
 - 17.3.8. The exact period of recommended sick leave.
 - 17.3.9. The date of issue of the certificate of illness.
 - 17.3.10. A clear indication of the identity of the practitioner or person who issued the certificate.
 - 17.3.11. The initial and surname in block letters, and the registration or practice number of the practitioner who issued the certificate.
 - 17.4. If the practitioner or person uses pre-printed medical certificates, wording not applicable to the patient must be deleted.
 - 17.5. The Head of Department must accept medical certificates that do not describe the nature and extent of an employee's illness for sick leave taken **during the normal sick leave cycle**, i.e. 36 working days in a 3-year cycle. The employer may request from the employee a medical certificate describing the nature and extent of the illness before granting sick leave, if the employee abuses the system during the normal sick leave period of 36 working days (e.g. a pattern of regular sick leave on Mondays or Fridays). If the employee fails to submit the required medical certificate, the Head of Department must notify the employee that if the prescribed medical certificate is not received within 2 working days, the sick leave period will be either regarded as unpaid leave or annual leave. If the employee fails to submit the medical certificate on time, the relevant absence must be covered by annual leave (with the employee's consent) and/or unpaid leave if insufficient annual leave credits are available and if the employee failed to notify the Head of Department of his/her choice. Failure by the employee to submit his/her medical certificate within the stated period must be viewed in a serious light and disciplinary steps against the employee should be taken.



- 17.6. For purposes of temporary incapacity leave the employer only accepts medical certificates issued and signed by practitioners registered with the Health Professional Council of South Africa and who are legally certified to diagnose and treat patients. Such medical certificates must describe that the illness or injury is temporary and, if the employee has given his/her informed consent, the nature and extent of the employee's illness or injury. The provisions contained in paragraph 17.3 above, applies *mutatis mutandis* in respect of such medical certificates.
- 17.7. **The employer must, in accordance with the constitutional rights to privacy, the Code of Conduct in the Public Service Regulations treat at all times any information regarding the medical condition of an employee with the necessary respect and confidentiality.** Such information may therefore not be disclosed to any other person(s) not authorised to receive such information. If an employee discloses such confidential information of one employee to any other unauthorized person, it must be viewed in a serious light and disciplinary steps against the transgressing employee should be taken.

18. GENERAL: SICK LEAVE

- 18.1. In the event where an employee has to –
- 18.1.1. consult a doctor, therapist, etc. for reasons related to the employees health/wellness, or
 - 18.1.2. go for training related to a disability, e.g. a blind employee who has to get training with his/her guide dog, or
 - 18.1.3. 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.¹¹
- 18.2. 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.¹²
- 18.3. The Head of Department may require the necessary proof of such events or occurrences to properly monitor the utilisation of sick leave.
- 18.4. Fractions of sick leave entitlements may be converted using the formula in par.7.4 above.
- 18.5. An employee shall retain his/her sick leave credits in respect of a particular sick leave cycle, when the employee-
- 18.5.1. is transferred within a department or between departments; or
 - 18.5.2. is appointed in terms of the Public Service Act, 1994 without a break in service.

¹¹ Refer to Part 2 for an explanatory note on the application of this provision in relation to the IFMS

¹² Refer to Part 2 for an explanatory note on the application of this provision in relation to the IFMS



19. LEAVE FOR OCCUPATIONAL INJURIES AND DISEASES

- 19.1. An employee who, as a result of his/her work, suffers an occupational injury or contracts an occupational disease, shall be granted occupational and disease leave for the duration of the period they cannot work.
- 19.2. 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:
 - 19.2.1. brings a claim for compensation against the third party; and
 - 19.2.2. 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.
- 19.3. The Head of Department shall take reasonable steps to assist an employee to claim compensation according to 19.2 above.
- 19.4. When an employee is injured on duty or contracted an occupational disease the employer must pay the employee's medical expenses in terms of the provisions of the Compensation on Occupational and Injury and Disease Act, The employer may, depending on the circumstances, recover certain expenses in the event where a third party was involved in the accident. Please refer to the guide: *"Application of the Compensation for Occupational Injuries and Diseases Act (COIDA) In the Workplace: A Guide for Government Departments"* for further details.

20. PRE-NATAL LEAVE (EFFECTIVE FROM 1 JANUARY 2013 ONLY)

- 20.1. A pregnant employee will be entitled to 8 working days pre-natal leave, per pregnancy, allowing the employee to attend medical examinations by a medical practitioner or midwife, and tests related to the pregnancy.
- 20.2. An employee can utilise a full day or part of a day for pre-natal leave. The Head of Department shall maintain a system to record episodes where the employee utilised part of a day. One day's pre-natal leave shall be deducted once the duration of absences equates the employee's prescribed daily working hours.¹³
- 20.3. An application for pre-natal leave should be supported by reasonable proof that the employee attended a doctor's appointment and/or went for tests related to the pregnancy.
- 20.4. An employee who has used all her pre-natal leave may, subject to the approval of the Head of Department, apply to use available annual leave and/or unpaid leave.
- 20.5. Absences related to medical complications during the pregnancy will be covered by sick leave.
- 20.6. All other maternity leave provisions, as defined in this Determination and Directive on Leave of Absence, remain applicable.

¹³ Refer to Part 2 for the explanatory note on the application of this provision in relation to the IFMS.



21. MATERNITY LEAVE

- 21.1. Employees are entitled to 4 consecutive calendar months' maternity leave to commence:
- 21.1.1. at any time from four weeks before the expected date of birth; or
 - 21.1.2. 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.
- 21.2. 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.
- 21.3. 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.
- 21.4. Maternity leave may only be interrupted if-
- 21.4.1. the baby is born prematurely and is hospitalised during maternity leave; or
 - 21.4.2. the baby becomes ill and is hospitalised for a period longer than a month during the maternity leave.
- 21.5. The provisions contained in paragraph 21.4 are only applicable to an employee, who chooses to interrupt her maternity leave in these circumstances.
- 21.6. If an employee referred to in paragraph 21.4.1 and 21.4.2 above, chose to interrupt her maternity leave and failed to return to work after the six weeks mentioned in paragraph 21.3 above, such a period must be covered with annual leave or unpaid leave if she does not have enough annual leave available.
- 21.7. Maternity leave may be extended upon application by:
- 21.7.1. the granting of sick leave as a result of a medical complication;
 - 21.7.2. the granting of up to 184 calendar days unpaid leave; or
 - 21.7.3. the granting of annual leave.
- 21.8. 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 leave¹⁴, where after, 21.7.1 shall apply in the event of a medical complication.
- 21.9. Provisions in 21.8 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.

¹⁴ Leave to begin after the miscarriage, stillbirth or the termination of pregnancy.



22. **ADOPTION LEAVE**¹⁵

- 22.1. 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, 21.7.2 and 21.7.3 shall apply.
- 22.2. 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 22.1 above.

23. **SURROGACY LEAVE**

23.1. **Commissioning Parent**

- 23.1.1. With effect from 8 June 2018 an employee who is a commissioning parent in terms of a surrogate motherhood agreement confirmed by the High Court as contemplated in the Children's Act, 2005, is entitled to four (4) consecutive calendar months paid leave commencing from the date of the birth of the child.
- 23.1.2. The employee referred to in paragraph 23.1, above, must notify an employer in writing at least one (1) calendar month before a child is expected to be born as a result of a surrogate motherhood agreement, of the date on which the employee intends to commence with surrogacy leave.
- 23.1.3. If both commissioning parents are employed in the public service, only one (1) such parent will qualify for the surrogacy leave.
- 23.1.4. An application for surrogacy leave shall be supported by a surrogate motherhood agreement.

23.2. **Surrogate Mother**

- 23.2.1. An employee who is a surrogate mother, in terms of a surrogate motherhood agreement is entitled to six (6) consecutive weeks maternity leave.
- 23.2.2. An employee who is a surrogate mother may commence with normal official duty within the six (6) week period only if the attending practitioner certifies that the employee is fit to do so.
- 23.2.3. It is incumbent on the employee to notify the employer of the surrogate motherhood agreement and submit a copy thereof as soon as it has been confirmed by the High Court.
- 23.2.4. The employee's application for leave shall be supported by the surrogate motherhood agreement.

24. **FAMILY RESPONSIBILITY LEAVE**

- 24.1. Employees shall be granted 3 working days leave per annual leave cycle for utilisation if:
 - 24.1.1. The employee's spouse or life partner gives birth to a child; or

¹⁵ Refer to Part 3 for implementation notes.



-
- 24.1.2. The employee's child, spouse or life partner is sick.
- 24.2. Employees shall be granted 5 working days leave per annual leave cycle for utilisation if:
- 24.2.1. The employee's child, spouse or life partner dies; or
- 24.2.2. An employee's immediate family member dies.
- 24.3. The number of family responsibility leave days taken according to 24.1 and 24.2 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.
- 24.4. With effect from 1 January 2013 the provisions in paragraph 24.1 to 24.3 will cease to exist. Employees would henceforth be entitled to the following family responsibility leave benefits:
- 24.4.1. 5 working days family responsibility leave per annual leave cycle for utilisation if the employee's spouse or life partner gives birth to a child; or the employee's child, spouse or life partner is sick.
- 24.4.2. "Child" for purposes of paragraph 24.4.1 means the employee's son or daughter, who is under 18 years of age.
- 24.4.3. 5 working days leave per annual leave cycle for utilisation if the employee's child, spouse or life partner or an employee's immediate family member dies.
- 24.5. Immediate family member for purposes of paragraph 24.4.3 means the employee's parent, adoptive parent, step-parent, parents-in-law, sister- and brother-in-law, grandparent, child, adopted child, stepchild, grandchild or sibling. For the purposes of this provision "child" means the employee's son or daughter, and where applicable son- or daughter-in-law, of any age. The granting of family responsibility leave must be taken with due consideration of the employee's cultural responsibilities.
- 24.6. An application for family responsibility leave shall be supported by reasonable proof.
- 24.7. With effect from 20 May 2015 an employee who has a child(ren) with severe special needs shall be granted five (5) working days family responsibility leave per calendar year.
- 24.7.1. For the purposes of paragraph 24.7, a child with severe special needs is a child who has a mental, emotional or physical disability, certified by a medical practitioner, which requires health and related services of a type or amount beyond that required by children generally. For the purposes of this provision "child" means the employee's son or daughter of any age.
- 24.7.2. An application for family responsibility leave should be supported by reasonable proof to demonstrate the severe special needs of the employee's child.
- 24.8. Employees who have used all their family responsibility leave may, subject to the approval of the Head of Department, apply to:
- 24.8.1. use available annual leave; or



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

24.9. Family responsibility leave may be taken for part of a day. For example an employee who takes three hours off to attend to a family responsibility would use only three hours of their family responsibility leave entitlements.

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

24.11. Departments must keep manual records of the utilisation of family responsibility leave taken for part of a day. After reaching the daily number of working hours of attendance prescribed the employee must complete and submit a leave form.¹⁶

24.12. For purposes of converting fractions/decimals of family responsibility leave entitlements into working hours the formula in paragraph 7.4 above must be utilised.

25. PATERNITY LEAVE

25.1. With effect from 20 May 2015 an employee shall be granted three (3) working days paternity leave per calendar year for utilisation if the employee's spouse or life partner gives birth to a child or adopts a child not older than two (2) years.

25.2. An employee who has used all his/her paternity leave may, subject to the approval of the Head of Department, apply to:

25.2.1. use his/her part or all of 5 working days family responsibility leave provided for in paragraph 24.4.1, above; or

25.2.2. use available annual leave; or

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

25.3. An application for paternity leave shall be supported by reasonable proof.

26. SPECIAL LEAVE

26.1. A special leave policy shall be negotiated in the relevant sectoral bargaining council.

26.2. The policy mentioned in 26.1 above shall define:

26.2.1. circumstances and conditions under which special leave is granted; and

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

26.3. 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 Refer to Part 2 for an explanatory note on the application of this provision in relation to the IFMS



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

- 27.1. Office bearers or shop stewards of recognised employee organisations shall receive up to 10 working days paid leave per annum for activities related to his/her union position.
- 27.2. With effect from 1 January 2013 the entitlement for shop stewards contained in paragraph 27.1 will be increased to 15 working days.¹⁷
- 27.3. The 15 working days shall be pooled per recognised trade union. Office bearers or shop stewards belonging to the same recognised trade union may apply for leave days from the pool. A list of the recognised employee organisations are attached at Annexure C.
- 27.4. The Head of Department shall appoint an administrator of the pool. The administrator should preferably be the Human Resource Manager of the Department. The Head of Department shall develop standard operating procedures to ensure that the utilisation of the pool is properly managed, recorded and monitored to ensure that the leave days available in the pool is not exceeded and/or abused.
- 27.5. A shop steward may apply for leave from the pool in respect of the recognised employee organisation she/he belongs to only. An individual shop steward may apply due to the union activities attached to his/her union position for either less than or more than 15 working days in a leave cycle. However, the shop stewards accessing the same pool of leave may not exceed the total number of leave days available in the pool.
- 27.6. Shop steward leave may only be utilised for activities related to the employee's union position. All applications for this type of leave must be submitted in writing on the prescribed leave application form or electronically¹⁸, together with supporting documentation.
- 27.7. If a shop steward of a recognised employee organisation has to perform union activities while on annual leave with full pay, such annual leave shall be converted to shop steward leave, provided that a formal request with supporting documentary evidence are submitted substantiating that he/she had to perform union activities.
- 27.8. The employee's supervisor shall liaise with the Labour Relations Manager and Human Resource Manager to validate the employee's involvement in a union activity/business and whether sufficient credits are available in the leave pool.
- 27.9. Approved applications shall be captured on PERSAL or the IFMS, whichever system is in use in the Department.

28. UNPAID LEAVE

- 28.1. If an employee has utilised all his/her annual leave with full pay, the Head of Department may grant him or her unpaid leave.
- 28.2. 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.

¹⁷ Refer to Part 3 for implementation notes.

¹⁸ Refer to Part 2 for an explanatory note on the application of this provision in relation to the IFMS



28.3. Unpaid leave should be regarded as calendar days.

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

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

Where -

A = represents the employee's remuneration Levels 1-10: annual basic salary and MMS, the all-inclusive package)

B = represents the number of days annual leave without pay (i.e. **calendar** days)

365 = represents the number of **calendar** days in a year

Note: For computed EXAMPLES please refer to Annexure B.

29. LEAVE PROVISIONS FOR A CASUAL WORKER

29.1. A casual worker as defined in this Determination and Directive is in terms of the Basic Conditions of Employment Act, 1998, as amended not eligible to leave.

29.2. Departments are urged to ensure that the employment of casual workers is in terms of the agreement. Existing employees appointed as casual workers for longer than 24 hours per month, must be translated to temporary employees¹⁹ with immediate effect.

30. LEAVE PROVISIONS FOR TEMPORARY²⁰ EMPLOYEES²¹

A temporary employee is eligible to the following types of leave on a pro rata basis linked to the duration of his/her contract. The utilisation of these leave types is subject to the rules that govern the relevant type of leave:

30.1. Annual leave:

A temporary employee shall at the beginning of his/her contract period be granted annual leave that is proportional to his/her term of employment at a rate of one-twelfth of the annual leave credit applicable to the employee category (as per Annexure A), per calendar month of service.

30.2. Normal Sick Leave:

A temporary employee shall at the beginning of his/her contract period be granted normal sick leave that is proportional to his/her term of employment at a rate of 1 days normal sick leave per calendar month of service.

¹⁹ Refer to clause 11 of PSCBC Res 1 of 2007

²⁰ Refer to clause 11 of PSCBC Res 1 of 2007

²¹ Refer also to the Determination on Interns and Learners



30.3. **Maternity Leave:**

30.3.1. A temporary employee shall be granted paid maternity leave that is proportional to her term of contract at a rate of 10 calendar days maternity leave with full pay calculated at each calendar month of her term of contract to a maximum of 4 calendar months, where after maternity leave without pay shall be granted. The total period granted in respect of maternity leave shall not exceed four consecutive calendar months.

30.4. **Adoption**

30.4.1. A temporary employee who adopts a child that is younger than two years, shall qualify for adoption leave at a rate of 4 working days paid leave for each calendar month of his/her term of contract to a maximum of 45 working days.

30.5. **Surrogacy Leave**

30.5.1. With effect from 8 June 2018 a temporary employee who is a commissioning parent in terms of a surrogate motherhood agreement confirmed by the High Court as contemplated in the Children's Act, 2005, shall be granted paid surrogacy leave that is proportional to his/her term of contract at a rate of ten (10) calendar days surrogacy leave with full pay calculated at each calendar month of his/her term of contract to a maximum of four (4) calendar months, where after surrogacy leave without pay shall be granted. The total period granted in respect of surrogacy leave shall not exceed four (4) consecutive calendar months.

30.5.2. A temporary employee who is a surrogate mother in terms of a surrogate motherhood agreement, confirmed by the High Court, provided for in the Children's Act, 2005, shall be granted paid maternity leave that is proportional to her term of contract at a rate of 3.5 calendar days maternity leave with full pay calculated at each calendar month of her term of contract to a maximum of six (6) consecutive weeks where after maternity leave without pay shall be granted.

30.6. **Pre-Natal Leave (Effective from 1 January 2013 only)**

30.6.1. A temporary employee who is pregnant shall qualify for pre-natal leave at a rate of 1 working day paid leave for each calendar month of her term of contract to a maximum of 8 working days.

30.7. **Paternity Leave**

With effect from 20 May 2015 a temporary employee who's spouse or life partner gives birth to a child or adopts a child not older than two (2) years shall qualify for paternity leave at a rate of 1 working day paid leave for each calendar month of his/her term of contract to a maximum of 3 working days.

30.8. **Other Provisions:**

The terms and conditions attached to the granting of the above types of leave, as well as the provisions contained in: paragraph(s) 10, 11, 12, 15, 16 (where applicable), 17 (where applicable), 19, 24, 26 and 31 apply *mutatis mutandis* to a contract worker.



31. GENERAL PROVISIONS

31.1. Except in exceptional circumstances, the employee may not stay away from his/her place of duty unless an application for leave of absence has been lodged in writing or electronically²² and he/she has been informed by the Head of Department that the application has been approved.

31.2. Heads of Department must ensure that:

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

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

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

31.3. Duration of Employment

31.3.1. For purposes of determining the length of an employee's employment with an employer for purposes of annual leave, normal sick leave and family responsibility leave, previous employment in the public service must be taken into account if the break between the periods of employment is less than one year. This principle applies in respect of each break in service that occurs in the career of an employee.

31.3.2. The leave entitlement of the employee referred to in paragraph 31.3.1 in respect of annual leave, normal sick leave and family responsibility leave should be reduced with the leave benefit granted (annual leave payouts included) plus the pro rata portion for the duration of the break in service.

31.3.3. For example -

31.3.3.1. If an employee with 10 years' service terminated his/her services on 30 April 2012 and is reappointed in the public service on 1 August 2012, she/he will be grouped in the leave category applicable to employees with 10 and more years' service, i.e. 30 working days.

(a) The 30 working days are reduced by-

- i) the number of annual leave days the employee either utilised prior to his/her termination of service and/or received as a leave payout. Assuming for purposes of this example the employee received a leave payout in respect of unused annual leave for the period 1 January to 30 April 2012 amounting to 8.64 working days ($2.16^{23} \times 4$ months); and

²² Refer to Part 2 for an explanatory note on the application of this provision in relation to the IFMS on page 7

²³ At the time of that the leave payout was made the employee was only entitled to 26 working days.



ii) the pro rata portion equivalent to the break in service. In this example it would amount to 6.48 working days.

(b) The remaining leave credits, if any, will then be available to the employee for the remainder of the leave cycle. In this example the employee would be eligible to 14.88 working days annual leave. (15.12 – 30 = 14.88).

31.3.3.2. In respect of normal sick leave it is assumed for purposes of this example that the employee referred to in paragraph 31.3.3.1 utilised 15 working days normal sick leave prior to his/her termination of service. The pro rata portion equivalent to the period in break in service amounts 3 working days. The employee is thus eligible to 18 working days normal sick leave for the remainder of the sick leave cycle at reappointment. (i.e. 18-36=18)

31.3.3.3. If the employee referred to in paragraph 31.3.3.1 have not utilised any family responsibility leave prior to his/her termination of service, this entitlement will be reduced with 1.25 working days representing the pro rata portion of his/her break in service. The employee will thus be eligible to 3.75 working days' family responsibility leave for the remainder of the leave cycle.

31.4. Training of disabled employees

31.4.1. 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.

31.5. Fitment, adjustment or maintenance of equipment of disabled employees

31.5.1. 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 18 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	
	Less than 10 years service	27
	10 or more years service	30
4.	Nursing personnel in institutions that provide 24 hour service	
4 (a)	Student and pupil nurses	22
4 (b)	Part-time nurses:	
	Less than 10 years service	22
	10 or more years of service	30
4 (c)	Registered/enrolled nurses and nursing assistants:	
	Less than 10 years service	22
	10 or more years of service	30
5.	Other employees:	
	Less than 10 years service	22
	10 or more years of service	30



COMPUTED EXAMPLES

Calculating Annual Leave at Termination of Service

EXAMPLE 1: Employees Levels 1 – 10

The employee resigns with effect from 1 April 2008, the employee's remuneration on the last day of duty is R102 750 (in other words R 75 000 (annual basic salary) + R27 750 (in respect of the 37%)), s/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:

$$\frac{\{(A - B) + (C - D)\} \times E^{24}}{260,714}$$

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 = Represents the employee's remuneration (i.e. annual basic salary plus 37%)

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)²⁵, use the formula in STEP 3 below.

²⁴ This formula is in terms of paragraph 9.6 of the Determination issued by the MPSA.

²⁵ 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 2008 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

STEP 5

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

$$\begin{aligned} &\frac{\{(A - B) + (C - D)\}^{26} \times E}{260.714} \\ \text{Cash value} &= \frac{\{(22 - 10) + (5.5 - 0)\} \times R 102\,750}{260.714} \\ &= \frac{(12 + 5.5) \times R 102\,750}{260.714} \\ &= \frac{17.5 \times R 102\,750}{260.714} \\ &= \underline{R6\,896.92} \end{aligned}$$

²⁶ 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 Determination.



NOTE:

The pro rata leave credits in this EXAMPLE derive from the leave credits in the current leave cycle beginning from 1 January 2008 to 31 March 2008.

EXAMPLE 2: Middle Management Service (MMS) employees

The member resigns with effect from 1 November 2007, the all-inclusive salary package on the last day of duty is R369 000 per annum, 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:

$$\frac{\{(A - B)^{27} + (C - D)\} \times E}{260.714}$$

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 = Represents the employee's remuneration (i.e. annual inclusive package)

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.

Y = Normal annual entitlement as per Annexure A.

²⁷ Since the termination of service happens after the expiry of the 6 months period, information on A and B will be represented by 0.



$$\begin{aligned} \text{In other words:} &= \frac{10 \times 30}{12} \\ &= \underline{25 \text{ days}} \end{aligned}$$

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:

$$\begin{aligned} \text{Cash value} &= \frac{\{(A - B)^i + (C - D)\}^{28} \times E}{260.714} \\ &= \frac{\{(0 - 0) + (25 - 5)\} \times R369\,000}{260.714} \\ &= \frac{20 \times R369\,000}{260.714} \\ &= \underline{R\,28\,306.88} \end{aligned}$$

²⁸ 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 Determination.



Calculating Annual Leave: Leave Payout of Unused Leave at the Expiry of the 6 Month Grace Period of a Leave Cycle

EXAMPLE 3: Employees Levels 1 – 10

The employee has unused leave credits at the expiry of the 6 months period at the end of 30 June 2008, the employee's remuneration on the last day of June is R102 750 (in other words R 75 000 (annual basic salary) + R27 750 (in respect of the 37%)), s/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:

$$\frac{(A - B) \times C^{29}}{12}$$

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 employee's remuneration (i.e. annual basic salary plus 37%)

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)³⁰, use the formula in STEP 3 below.

STEP 2

Use the given information to determine B (Leave taken in the previous leave cycle)

²⁹ This formula is in terms of paragraph 9.7 of the Determination issued by the MPSA.

³⁰ The pro rata leave entitlement in this regard is in respect of employees appointed after a leave cycle has commenced



STEP 3

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

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

Cash value = $\frac{(22 - 10) \times R 102\,750}{260.714}$

= $\frac{12 \times R 102\,750}{260.714}$

= R 4729.32

EXAMPLE 4: Middle Management Service (MMS)

The employee has unused leave credits at the expiry of the 6 months period at the end of 30 June 2008, the all-inclusive salary package on the last day of duty is R369 000 per annum, he falls in the 26 working day leave category and taken at least 10 working days' leave.

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

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

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 employee's remuneration (i.e. annual inclusive package)



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)³¹, use the formula in STEP 3 below.

STEP 2

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

STEP 3

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

$$\begin{aligned}\text{Cash value} &= \frac{(A - B) \times C}{260.714} \\ &= \frac{(26 - 10) \times \text{R}369\,000}{260.714} \\ &= \frac{16 \times \text{R}369\,000}{260.714} \\ &= \underline{\underline{\text{R } 22\,645.50}}\end{aligned}$$

³¹ The pro rata leave entitlement in this regard is in respect of employees appointed after a leave cycle has commenced



Calculating Capped Leave

EXAMPLE 5: Employees levels 1 - 10

The employee retires or dies or is medically boarded with effect from 1 August 2007, the employee's remuneration on the last day of duty is R268 520 (in other words R 196 000 (annual basic salary) + R72 520 (in respect of the 37%)), s/he falls in the 26 working day leave category and has taken at least 10 working days' leave with 200 days of capped leave which has already been converted into working days

The cash value payable in respect of capped and audited leave at termination of service should be computed as follows:

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

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 = Represents the employee's remuneration (i.e. annual basic salary plus 37%)

F = represents the capped leave

G = represents the employee's remuneration (levels 1-10 the annual basic salary only) 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)³², use the formula in STEP 3 below.

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 2007 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)

$$\begin{aligned} \text{In other words:} &= \frac{7 \times 26}{12} \\ &= 15.16 \text{ days} \end{aligned}$$

STEP 4

Use the given information to determine E

STEP 5

Use the given information to determine F. 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

STEP 6

Use the given information to determine G

³² The pro rata leave entitlement in this regard is in respect of employees appointed after a leave cycle has commenced



STEP 7

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

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

$$\begin{aligned} \text{Cash value} &= \frac{\{(0 - 0) + (15.16 - 10)\} \times R268\,520 + (200 \times R196\,000)}{260.714} \\ &= \frac{\{(0 + 5.16)\} \times R268\,520 + (R39\,200\,000)}{260.714} \\ &= \frac{\{5.16 \times R268\,520 + (R39\,200\,000)\}}{260.714} \\ &= \frac{R1\,385\,563.20 + R39\,200\,000}{260.714} \\ &= \frac{40\,585\,563.20}{260.714} \\ &= R155\,670.82 \end{aligned}$$



EXAMPLE 6: Middle Management Service (MMS) Employees

The employee retires or dies or is medically boarded with effect from 1 August 2007, the employee's remuneration on the last day of duty is R369 000 (all inclusive package), s/he falls in the 26 working day leave category and has taken at least 10 working days' leave with 200 days of capped leave which has already been converted into working days

The cash value payable in respect of capped and audited leave at termination of service should be computed as follows:

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

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 = Represents the employee's remuneration (i.e. annual inclusive package)

F = represents the capped leave

G = represents the employee's remuneration (MMS - the annual basic salary only) 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)³³, use the formula in STEP 3 below.

³³ 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 2007 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)

$$\begin{aligned} \text{In other words:} &= \frac{7 \times 26}{12} \\ &= 15.16 \underline{\text{days}} \end{aligned}$$

STEP 4

Use the given information to determine E

STEP 5

Use the given information to determine F. 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

STEP 6

Use the given information to determine G



STEP 7

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

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

$$\begin{aligned} \text{Cash value} &= \frac{\{(0 - 0) + (15.16 - 10)\} \times R369\,000 + (200 \times R280\,440)}{260.714} \\ &= \frac{\{(0 + 5.16)\} \times R369\,000 + (R56\,088\,000)}{260.714} \\ &= \frac{\{5.16 \times R369\,000 + (R56\,088\,000)\}}{260.714} \\ &= \frac{R1\,904\,040 + R56\,088\,000}{260.714} \\ &= \frac{R57\,992\,040}{260.714} \\ &= R222\,435.46 \end{aligned}$$



Calculating Over-Granted Annual Leave

EXAMPLE 7: Employees level 1 - 10

An employee has been over-granted 10 days leave. The employee's annual basic salary plus 37% at that stage is R83 656:

$$\frac{A \times B}{260.714}$$

Where-

- A = Represents the employee's remuneration
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

$$\frac{R\ 836\ 560}{260.714}$$

= R3 208.72 (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.

EXAMPLE 8: Middle Management Service (MMS) employees

A member has been over-granted 10 days leave. The member's all-inclusive salary package at that stage is R 369 000

$$\frac{A \times B}{260.714}$$

Where-

- A = represents the employee's remuneration (i.e. all inclusive package)
B = represents the number of days annual leave over-granted
260.714 = represents the number of working days in a year



STEP 1

R 369 000 X 10 days = R3 690 000

STEP 2

R3 690 000
260.714

= R14 153.44 (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 9: Employees levels 1 - 10

An employee has taken 15 calendar days unpaid leave. The employee's annual basic salary at that stage is R83 656:

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

Where-

A = Represents the employee's remuneration (i.e. annual basic salary)

B = represents the number of days annual leave without pay (i.e. **calendar** days)

365 = number of calendar days in a year

STEP 1

$$\frac{R83\,656 \times 15 \text{ days}}{365}$$

STEP 2

$$\frac{R1\,254\,840}{365} = R3\,437.91 \text{ (value in Rand of leave taken without pay)}$$

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

EXAMPLE 10: Middle Management Service (MMS) Employees

A member has taken 15 calendar days unpaid leave. The member's all-inclusive remuneration package at that stage is R 369 000:

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

Where-

A = Represents the employee's remuneration (i.e. the all inclusive package)

B = represents the number of days annual leave without pay (i.e. **calendar** days)

365 = number of **calendar** days in a year



STEP 1

$$\frac{\text{R } 369\,000 \times 15 \text{ days}}{365}$$

STEP 2

$$\frac{\text{R}5\,535\,000,00}{365}$$

= R15 164,38 (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.



ANNEXURE C

LIST OF THE RECOGNISED EMPLOYEE ORGANISATIONS

DENOSA/SAMA

HOSPERSA/NATU/NUPSAW

NAPTOSA/SAOU

NEHAWU/PAWUSA

POPCRU/SASAWU

PSA/UNIPSAWU/NPSWU

SADTU/CTPA

SAPU/PEU
