

Policy on Leave

1. INTRODUCTION

An agreement on Remunerative Allowances and Benefits (Resolution No. 7 of 2000) was signed in the Public Service Co-ordinating Bargaining Council (PSCBC) which, inter alia, provides for a new leave dispensation for the Public Service.

The new leave dispensation replaces all previous leave dispensation. The revised provisions require the Department to implement administrative mechanism to effectively manage leave within the organization, determine procedures and measures in keeping with service delivery needs on how employees will be permitted to utilize their “capped” leave accrued prior to 1 July 2000 as well as to adopt a policy on Special Leave.

2. PURPOSE

The purpose of this policy is to regulate an employee’s absence from duty within the framework and measures as set out in this policy.

3. AUTHORISATION

- Section 28 of the Public Service Act, 1994 (Act 103 of 1994) as amended.
- Chapter 1, Part V/F of the Public Service Regulations, 2001.
- Paragraph 7 of Resolution no. 7 of 2001 of the PSCBC
- Department of Public Service and Administration circular E1/2/2/P dated
- 30 November 2000 i.e. “A Directive on leave of absence in the Public Service.

4. SCOPE OF APPLICATION

This policy is only applicable to employees employed in the service of the Department in terms of the Public Service Act, 1994 (Act 103 of 1994) as amended.

A separate policy will be issued in due course for employees employed in terms of the Employment of Educators Act, 1998 (Act 76 of 1998) as amended.

5. MEASURES AND PROVISIONS

5.1 Annual Leave

(a) Office Based Public Service Employees

1. It is the responsibility of each employee to ensure that prior approval is obtained before proceeding on leave. Proceeding on leave without prior approval will be deemed to be unauthorized and covered by the granting of leave without pay apart from any disciplinary action that may be instituted.
2. This category of employees will accrue 22 working days leave with full pay per annual leave cycle i.e. from 1 January to 31 December of each year except for employees appointed after 1 January of each year and casual employees. An employee's pro-rata annual leave entitlement will only be in respect of the full calendar month that the employee served in that year. For example, an employee appointed on 12 March will only be entitled to pro rata leave with effect from 1 April. After completion of 10 year uninterrupted service, the leave entitlement will increase to 26 working days with full pay per annual leave cycle.
3. For every 15 consecutive days' leave taken without pay, the employee's annual leave entitlement shall be reduced by one-twelfth. In this regard it must be noted that the reduction is in respect of annual leave entitlement and not in respect of a month's entitlement. It follows therefore that if an employee is on unpaid leave from 19 March 2001 to 2 April 2001 (15 days) the employee's leave entitlement must be reduced by one-twelfth.
4. The contract in respect of temporary employees must make provision for leave entitlement that are in line with the provisions of the leave directives. It should, however, be noted that temporary employees' leave entitlements should be calculated on a pro rata basis.
5. At least 10 working days must be taken as leave days during the annual leave cycle and this is a compulsory requirement.

Annual leave should, as far as possible, be taken as consecutive working days.

6. The remaining leave days, if any, must be taken by no later than 6 months after the expiry of the relevant leave cycle (30 June of the year following the leave cycle), where after, unused leave credits shall be forfeited.
7. It is the responsibility of the supervisor to ensure that all employees under his/ her control utilize their leave entitlement in terms of the annual leave measures prescribed herein.
8. The supervisor shall not unreasonably refuse to grant leave to supervisees who apply for leave and in this regard it must be noted that it is not the intention of the Department to pay out any leave days whatsoever and that all attempts must be made to grant leave applied for in term of the entitlement. The refusal of leave must be based only on service delivery requirements.
9. In instances where the supervisor is unable to grant the leave applied for due to service delivery requirements, the supervisor after consultation with the supervisee must endeavor to reschedule his/her leave taking within the prescribed 18-month period and this must be conveyed to the supervisee in writing by the supervisor.
10. In instances where it is not possible to reschedule or grant the leave within the prescribed 18-month period, the supervisor must submit the application together with reasons substantiating the refusal of the leave to the Head of Department or his/her delegate for a decision. Should it be decided that the leave cannot be granted, such a decision together with reasons must be conveyed in writing to the supervisee concerned.
11. If, due to the employer's service delivery requirements an employee's application for leave is denied and not rescheduled, such leave will upon request, be paid out to the employee at the end of the prescribed 18-month period. The

employee's requests for payment of unused leave credits must be:

- (a) in writing; and
 - (b) accompanied by written proof of refusal of leave by the Head of Department or his/her delegate.
12. The cash value in respect of unused annual leave credits shall be payable at termination of service. For purposes of leave payouts, employees shall be paid a maximum of 22 days.
13. Heads of Department must, at the end of the relevant 18 month's 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.

b) Institution Based Public Service Employees

14. The provisions contained hereunder applies to employees -
- (a) in Educational or Training Institutions who have no duties when the institution closes for holidays,
 - (b) who remain on duty for part of the time when institution closes for holidays
15. This category of employees will accrue 10 working days leave plus 50% of the working days that the employee is required to work during an institutional holiday period up to a total maximum of 27 working days with full pay per annual leave cycle i.e. 1 January to 31 December of each year. The additional leave accrual will be granted provided prior written approval is obtained from the relevant Regional Senior Manager to perform duties during school holidays. Such approval will only be granted in exceptional circumstances and for justifiable reasons.
16. Temporary employees on fixed contract shall be granted annual leave that is proportional to their term of employment at a rate of one twelfth of the applicable annual leave entitlement. For each 15 consecutive days leave taken

without pay, the employee's annual leave entitlement shall be reduced by one twelfth.

17. Employees who are appointed after the commencement of the annual leave will only accrue leave on a pro-rata basis determined from the first day of the month. If the employee is appointed after the first day of the month, the leave accrual will be determined as from the first day of the month following the month in which they were appointed.
18. The annual leave entitlement should as far as possible be taken as leave days during the annual leave cycle. Should this not be possible due to service delivery requirements, the remaining leave days, if any, must be taken by no later than 6 months after the expiry of the relevant leave cycle (30 June of the year following the leave cycle), whereafter, unused leave credits shall be forfeited.
19. It is the responsibility of the Head of the Institution to ensure that all employees under his/ her control utilize their leave entitlement in terms of the annual leave measures prescribed herein.
20. The Head of the institution shall not unreasonably refuse to grant leave to supervisees who apply for leave and in this regard it must be noted that it is not the intention of the Department to pay out any leave days whatsoever and that all attempts must be made to grant leave applied for in term of the entitlement. The refusal of leave must be based only on service delivery requirements.
21. In instances where the Head of Institution is unable to grant the leave applied for due to service delivery requirements, the Head of Institution after consultation with the supervisee must endeavor to reschedule his/her leave taking within the prescribed 18-month period and this must be conveyed to the supervisee in writing by the Head of Institution.
22. In instances where it is not possible to reschedule or grant the leave within the prescribed 18-month period, the Head of the Institution must submit the application together with reasons substantiating the refusal of the leave to the relevant

Regional Office via the proper channels of communication. The Head of the Leave Section must consider the application and furnish his recommendation before forwarding to the Head of Department or his/her delegate for a decision. Should it be decided that the leave cannot be granted, such a decision together with reasons must be conveyed in writing to the applicant concerned, via the proper channels of communication.

23. If, due to the employer's service delivery requirements an employee's application for leave is denied and not rescheduled, such leave will upon request, be paid out to the employee at the end of the prescribed 18-month period. The employee's requests for payment of unused leave credits must be:
 - (a) in writing; and
 - (b) accompanied by written proof of refusal of leave by the Head of Department or his/her delegate.
24. The cash value in respect of unused annual leave credits shall be payable at termination of service. For purposes of leave payouts, employees shall be paid a maximum of 22 days.
25. Heads of Department must, at the end of the relevant 18 month's 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.

5.2 Normal Sick Leave

1. All employees are entitled to 36 working days sick leave with full pay over a three-year cycle irrespective of their date of appointment. Unused sick leave shall lapse at the expiry of the three- year cycle. The current sick leave cycle commences on 1 January 2001.
2. Sick leave may also be granted in respect of periods where an employee must be quarantined or isolate for at least 10 consecutive days. However, in the event of the employee concerned being exposed to an environment that is regarded

as an health risk, such employee's absence must be covered by the granting of special leave and not sick leave.

3. If an employee is unable to report for duty due to sudden illness, she or he must immediately notify her/ his supervisor of her or his inability to report for duty.
4. Employees who apply for three or more consecutive sick leave days must submit a certificate from a registered and recognized medical practitioner as defined by the Health Professionals' Council of South Africa, citing the reason and duration of absence. Certificates from herbalists and traditional healers are not acceptable unless they are registered with the Health Professionals' Council.
5. In instances where a pattern in the utilization of sick leave has been established, a certificate may be required for absences of less than three working days.
6. If an employee proceeds on sick leave on Friday and the following Monday, the sick leave will be computed as two working days provided it is with full pay. However, if unpaid leave is to be granted, it would be computed as four days.
7. Sick leave during period of notice of termination of service may be granted provided a medical certificate covering the period of absence, irrespective of the number of days, is submitted.
8. For every 15 consecutive days leave taken without pay, an employee's sick leave entitlement shall be reduced by $\frac{1}{36}$ th per sick leave cycle.
9. If an employee falls ill whilst on annual leave with full pay, such leave may be converted to sick leave provided that a certificate from a registered medical practitioner is submitted to substantiate the indisposition.

5.3 Temporary Disability

1. An employee who has exhausted his/her sick leave credit in a three year cycle and who, according to the relevant medical practitioner, requires to be absent due to disability that is

not permanent, may, at the discretion of the Head of Department or his/her delegate be granted additional sick leave on full pay, in the event of a serious illness.

2. Such a condition must be certified in advance by the medical practitioner as a temporary disability except where conditions do not permit.
3. The Head of Department or his/her delegate may request that an employee obtain a second opinion before granting approval for the additional sick leave. The cost for the subsequent medical examination must be met from the Departmental budget.
4. Applications for Temporary Disability Leave should be supported by strong medical evidence and which may a medical report from a specialist/ physician clearing indicating the nature, severity, symptoms as well as prognosis for the future of the illness. Written evidence of hospitalization may also be submitted. An indication of the expected period of sick leave required for the purpose of recovery must also be furnished.
5. A maximum of 30 consecutive working days sick leave with full pay may be granted provided that during this period an investigation into the nature and extent of the disability is conducted.

This investigation must be conducted in accordance with the provisions of paragraph 10(1) of Schedule 8 of the Labour Relations Act, 1995 as amended. Following the investigation the Head of Department, or his/her delegate may :

- Extend the temporary disability leave that may be necessary; or
 - With reasonable cause regard the disability as a permanent disability and deal with the matter according to the measures applicable to employees with such disability.
6. Should the HOD or his/her delegate be satisfied from the available medical evidence as to the nature and extent of the disability, he/she may :
 - grant or extend temporary disability leave.

- decide that the matter must be handled according to the measures applicable to employees with a permanent disability.

The Head of Department or his/her delegate may also, without further investigation but subject to appropriate medical evidence approve subsequent applications for temporary disability leave in respect of absences related to any serious illnesses or disability that an employee is known to have (e.g. cardiological, cancer or vertebral illnesses).

7. In instances where the employee utilized the 36 days normal sick leave entitlement due to a serious illness and such an employee contracts a less serious illness, eg. Flu, the granting of sick leave to such an employee must be considered on its own merit and with due regard to that employee's trend of utilizing sick leave. However, the granting of such additional sick leave must not exceed the number of days sick leave granted for a serious illness and must be restricted to a maximum of 36 days within the sick leave cycle.
8. If employees are of the opinion that they have been unfairly treated with regard to their application for additional sick leave, they have the right to follow the grievance procedure and the relevant dispute resolution procedures in order to settle the matter.

5.4 Permanent Disability

1. Employees whose degree of disability has been certified by a registered medical practitioner, as permanent must, with the approval of the Head of Department or his/her delegate, be granted a maximum of 30 working days paid sick leave or such additional number of days required by the employer to finalise the feasibility of:
 - 1.1 Alternative employment; or
 - 1.2 Adapting duties or work circumstances to accommodate the employee

2. An employee, whose degree of disability has been certified as permanent but who can still render a service, may be redeployed horizontally with retention of his or her benefits.
3. If the redeployment necessitates reallocation to a job of a lower grading, such should be explained well in advance and the continued utilization of such an employee should, in this regard, be with her or his consent
4. In instances where the employee's redeployment entail retraining or retooling, the employer shall take requisite resources (time and financial) and potential returns into consideration before approving redeployment.
5. The redeployment of an employee's services should ensure the optimal utilization of her or his competencies and should not compromise service delivery.
6. If the employer or the employee is convinced that the employee will never be able to render an effective service at her or his level or rank, the employee may proceed with an application for termination of service due to ill health in terms of the Government Employees Pension Law of 1996 or the employer may initiate the procedures in terms of the PSCBC Resolution 12 of 1999 (Incapacity Code and Procedures in respect of ill health).

5.5 Leave For Occupational Injuries And Diseases

1. Employees who, as a result of their work suffer occupational injuries or contract occupational diseases, shall be granted occupational injury and diseases leave for the duration of the period that they cannot work provided that the employee:
 - (a) Submits to her/ his supervisor medical certificates as well as the duly completed medical forms as prescribed in the Occupational Injuries and Diseases Act of 1993;
 - (b) Undertakes to apply for compensation in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 so as to, as far as possible recompensate him/her for the cost arising from the accident.

2. If an employee suffers a work-related injury as a result of an accident involving a third party, the head of Department or his/her delegate shall grant her/him occupational injury leave provided that the employee:
 - (a) Submits to her/his supervisor medical certificates as well as the duly completed medical forms as prescribed in the Occupational Injuries and Diseases Act, 1993.
 - (b) Brings a claim for compensation against the third party.
 - (c) Undertakes to apply for compensation in terms of the Compensation for Occupational Injuries and Diseases Act 1993 so as to, as far as possible, recompensate him/ her for the cost arising from the accident.
3. The supervisor shall take reasonable steps to assist an employee to claim compensation as set out in 1(b) and 2(c) above.

5.6 Maternity Leave

1. Employees are entitled to 4 consecutive calendar month's maternity leave to commence:
 - (a) at least four weeks before the expected date of birth; or
 - (b) at least two weeks before the expected date of delivery provided that the employee concerned furnishes a certificate from the attending practitioner that identifies the employer in the event of complications or any undesirable incidents and such a certificate must clearly state that the employee concerned is fit enough to work until the last two weeks before the expected date of delivery; or
 - (c) on an earlier date certified by the attending practitioner as necessary for the employee's health or that of the unborn child.
2. For at least six weeks after the birth, no employee may commence with normal official duty unless the attending practitioner certifies that the employee is fit to do so.

3. Maternity leave may not be interrupted with any other type of leave. However, maternity leave may be extended upon application by:
 - (a) the granting of sick leave as a result of a medical complication;
 - (b) the granting of up to 184 calendar days unpaid leave; or
 - (c) the granting of annual leave.
4. Employees who, during the third trimester of their pregnancy, experience a miscarriage, still birth or termination of the pregnancy on medical grounds, shall be eligible for six consecutive week's maternity leave commencing on the date of termination, where after, 3(a) shall apply in the event of a medical complication. Miscarriage, still birth or termination of pregnancy on medical grounds during the first two trimesters of the pregnancy must be regarded as normal sick leave.
5. Provision in 4 above shall also apply to an employee who experiences a miscarriage, stillbirth or termination of pregnancy on medical grounds after the commencement of maternity leave. The period prior to the miscarriage, stillbirth or termination of pregnancy shall be regarded as special leave with full pay.
6. In terms of the Basic Conditions of Employment Act, 1997 employees are not allowed to return to work for at least six weeks after the birth of a child. In this regard an employee's whose child passed away a few days after birth, such an employee must be granted 6 weeks maternity leave similar to employees who experience still birth, miscarriage or termination of pregnancy on medical grounds during the third trimester of their pregnancy.

5.7 Adoption Leave

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. This period of leave may be extended by :
 - granting of additional 184 calendar days unpaid leave; or
 - granting of annual leave.

2. If both spouses or life partners are employed in the Public Service, both partners will qualify for adoption leave provided that:
 - (a) the employee submits to his /her supervisor written proof of the number of days of adoption leave taken by his/her spouse/ life partner; and
 - (b) the combined leave taken does not exceed the 45 working days mentioned in (1) above.
3. The adoption leave must commence no later than the date on which the child is brought home.
4. Disciplinary action shall be instituted against employees who submit incorrect information regarding 2(a) above

5.8 Family Responsibility

1. Employees shall be granted 3 days leave per annual leave cycle for utilization if:
 - (a) The employee's spouse or life partner gives birth to a child; or
 - (b) The employee's child, spouse or life partner is sick.
2. Employees shall be granted 5 days leave per annual leave cycle for utilization if:
 - (a) The employee's child or life partner dies; or
 - (b) An employee's immediate family member dies.
3. The number of family responsibility leave days taken according to 1 and 2 above shall not exceed five days in an annual leave cycle.
4. Employees who have used all their family responsibility leave may, subject to the approval of the Head of Department, apply to:
 - (a) Use available annual leave; or Use up to 184 calendar days of unpaid leave.
5. A written statement or letter containing reasons must accompany the application for family responsibility leave.

6. In terms of the Basic Conditions of Employment Act, 1997, immediate family is limited to an employee's parents, adoptive parents, grand parents, children, adopted children; grand children or siblings. In granting this type of leave special circumstances including cultural responsibilities must be taken into consideration.

5.9 Special Leave

The provisions as set out in the policy on special leave are applicable.

5.10 Unpaid Leave

1. If an employee has utilized all her or his annual leave with full pay, the Head of Department or his/her delegate may grant her or him unpaid leave. Only in exceptional circumstances shall the Head of Department grant the employee more than 184 calendar days of unpaid leave in a period of 18 months.
2. Employees must ensure that prior approval is obtained before proceeding on unpaid leave.
3. An employee shall utilize unpaid leave for absences from work due to:
 - (a) Arrest, imprisonment or appearance in court on a criminal charge that leads to a conviction; or
 - (b) A criminal sentence.
4. Heads of Department or his/her delegate shall ensure that the internal disciplinary procedures are not dependent on external processes, e.g. Criminal Justice processes/procedures.

5.11. Nomination of Beneficiaries and Leave Payouts

1. Employees may designate one or more beneficiaries to whom their leave payout may be paid in the event of their death.
2. If the employee dies and has not designated a beneficiary, the leave payout will be made in full to :

- the spouse/life partner;
- if there is no spouse/life partner, in equal shares for the benefit of minor or other children (including legally adopted children), who were fully dependent on the deceased employee;
- to the employee's estate in the absence of any children.

5.12 Annual Leave with Full Pay Granted in Excess

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 their leave entitlement plus capped leave in respect of employees who were in service prior to 1 July 2000.
2. If an employee who has been granted annual leave on full pay in excess of his/her accrual due to a bona fide error, the number of days over granted must be deducted from his/her subsequent leave cycle.
3. If an employee who has been over granted leave with full pay exits the Department, that portion of the over grant which exceeds her or his normal annual leave credit on the last day of duty must be regarded as overpayment that must be recovered from the employee.

5.13 Leave for Casual Employees

a) Annual Leave

1. With effect from 1 June 2000 casual employees are entitled to one day's annual leave for every seventeen (17) days worked. Casual employees appointed on a hourly basis are entitled to one hour's leave for every seventeen hours worked.

2. Casual employees may only take annual leave once they have the leave to their credit. An aggregate of 8 hours of service will constitute one working day.
3. If an employee has utilized all her or his annual leave credits, he or she may be granted unpaid leave up to a maximum of 10 days.
4. Employees who have been in employment for longer than four (4) months are entitled to payment in respect of any unused annual leave credits in an annual leave cycle in the event of the termination of their services.

b) Sick Leave

1. Casual employees shall be entitled to one (1) day sick leave for every completed month of employment. An aggregate of eight (8) hours of service will constitute a day and thirty (30) days will constitute a month.
2. The Head of Department or his/her delegate may grant sick leave without pay.

c) Maternity Leave

1. Casual employees are entitled to a maximum of four (4) consecutive months of unpaid maternity leave during their contract period.
2. The employer shall assist the casual employee in accessing the benefits payable in terms of the Unemployment Insurance Fund Act.

d) Family Responsibility Leave

1. Casual employees shall, during an annual leave cycle, be granted a maximum of three days family responsibility leave for utilization if the employee's :
 - spouse or life partner gives birth to a child; or
 - dependent child, spouse, life partner is sick; or

- child, spouse or life partner dies
- immediate family member dies.

e) **Other**

The following benefits shall also apply to casual employees:

- Nomination of beneficiaries and leave payouts;
- Annual leave with full pay granted in excess in terms of the applicable conditions.
- Unpaid leave;
- General provisions

5.14 Measures Applicable To Capped Leave

- Employees, who in terms of the dispensation applicable prior to 1 July 2000, have earned leave accruals in terms of that dispensation, shall retain the same.
- The number of days due to an employee as at 30 June 2000 will be audited and capped by the relevant Personnel Component.
- Where there are no records an investigation will be conducted to determine whether there are periods, which are audited as opposed to periods which are unaudited. Should there be periods which are unaudited and periods which are audited, the leave accrual will be determined on the basis of six days per completed year of service up to 100 days of unaudited leave plus the value of the audited leave.
- The capped number of days leave will be converted to working days in accordance with the following formula:

$$\frac{A \times 5}{7}$$
 Where: A = number of audited leave credits.
- Capped leave as at 30 June 2000 can be utilized only after the annual leave entitlement for the applicable leave cycle has been exhausted.

- Should an employee apply for leave in excess of his/her annual leave entitlement, such excess days shall automatically be debited against the capped leave provided that, the approval of the relevant manager is obtained for the utilization of capped leave in excess of 20 days within an annual leave cycle
- Capped leave will be paid only under the following circumstances:
 - death
 - retirement; or
 - medical boarding

6. GENERAL PROVISIONS

1. Except in exceptional circumstances, employee may not stay away from her or his place of duty unless an application for leave of absence has been lodged in writing and he/she has been informed by the Supervisor that the application has been approved. The form prescribed as Annexure A must be used for this purpose.
2. Heads of Institution/ Supervisors must ensure that leave forms are submitted for all absences from duty and all outstanding leave forms are followed up and forwarded to the relevant personnel component
3. Each Head of Institution/ Supervisor must ensure that a leave file is maintained and accurate record kept of leave taken by staff under their control.
4. It is the responsibility of each Supervisor/ Head of Institution to issue a written communication advising staff under their control of the number of unused annual vacation leaves which has to be utilized within the prescribed period.
5. Service delivery requirements of the Department will take precedence in considering application for leave.
6. Disciplinary action will be taken against any official who fails to comply with the provisions contained in this policy document.

