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Department:  
Environment & Nature Conservation  
NORTHERN CAPE PROVINCE  
REPUBLIC OF SOUTH AFRICA

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# DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION

## POLICY ON LEAVE OF ABSENCE

11 October 2011

HUMAN RESOURCE

FINAL VERSION

*A PROSPEROUS AND EQUITABLE SOCIETY LIVING IN HARMONY WITH OUR NATURAL RESOURCES*



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## POLICY ON LEAVE OF ABSENCE 11 October 2011 HUMAN RESOURCE VERSION 2

*A PROSPEROUS AND EQUITABLE SOCIETY LIVING IN HARMONY WITH OUR NATURAL RESOURCES*

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## 1. CONCEPTUAL BACKGROUND

### DEPARTMENTAL POLICY GUIDELINE: POLICY ON LEAVE OF ABSENCE

In terms of the Public Service Co-ordinating Bargaining Council Resolution 3 of 1999 and the Public Service Regulations 2001, as amended, departments were given the mandate to develop policies and programmes which would enhance their managerial actions especially in respect of their human resource matters. The effect of the aforementioned is that departments are capacitated to develop their own policies and guidelines which will suit their needs, and with this added advantage those departments have greater autonomy in the day-to-day management of their human resource matters.

It can also be mentioned that in 1999, the then Director General for the province indicated that it was necessary to develop universal policies for the province, especially in those areas which are considered transversal. Although the then Director General had the intention to develop provincial policies for transversal issues, such intentions never materialized. For this reason, departments are still dependent on themselves to develop even those transversal policies until such time that provincial policies are developed.

#### 1.1 PREAMBLE

The purpose of this policy is to ensure that leave is granted to employees under circumstances, which necessitate their absence from work. This policy document provides guidelines and procedures to regulate an employee's absence from duty by means of granting leave of absence within the framework, provisions and measures as set out below.

#### 1.2 DEFINITIONS

<b><u>Auditing leave</u></b>	: The checking of leave application forms on employees' leave files against leave records and data on the PERSAL system, to establish whether all leave days have been correctly captured
<b><u>Calendar days</u></b>	: all the days of the month, including weekends and holidays
<b><u>Calendar months</u></b>	: all the months in a year (January to December)
<b><u>Capped leave</u></b>	: leave accrued from the date of appointment and accumulated until 30 June 2000
<b><u>Casual employees</u></b>	: short-term employees, appointed for periods not exceeding twelve months
<b><u>Department</u></b>	: Department of Tourism, Environment and Conservation
<b><u>Emergency</u></b>	: Refers to a crisis or urgent situation, i.e. need leave to fix a leaking water pipe at home
<b><u>HOD</u></b>	: Head of Department



- Full-time employees** : All permanent employees and employees who are appointed on a fixed term contract
- Immediate family** : An employee's spouse, life partner, parents, adoptive parents, grand parents, biological children, adopted children, grandchildren or siblings. The granting of family responsibility leave must be taken with due consideration of the employee's cultural responsibilities.
- Medical Practitioner** : All practitioners defined by the Health Professional Council of South Africa who are legally certified to diagnose and treat patients
- Spouse** : A person/s registered with the employer as the lawful husband/s or wife/wives or life partner (including same sex life partner)
- Working days** : Monday to Friday, excluding public holidays. This definition does not include shift workers whose annual leave may be taken on a Saturday or Sunday.

### 1.3 LEGISLATIVE REQUIREMENTS

- **Basic Conditions of Employment Act [No. 75 of 1997], as amended;**
- **Labour Relations Act [No. 66 of 1995] as amended;**
- **Public Service Act [No 103 of 1994] as amended;**
- **Public Service Regulations of 2001 as amended;**
  - **Resolution 03 of 1999;**
  - **Resolution 12 of 1999;**
  - **Resolution 07 of 2000;**
  - **Resolution 5 of 2001**
- **Directive on leave of absence in the Public Service issued by the Minister for Public Service and Administration, 13 November 2003.**



## **2. POLICY STATEMENT AND APPLICATION SCOPE**

### **2.1 GRANTING AND PROCEEDING ON LEAVE**

- (a) The following measures in relation to the granting of and proceeding on leave shall apply:

- (i) Except in cases of emergency, leave must be applied at least 5 working days in advance (in case of short leave for example one or two days) and 14 days prior to the commencement of leave in the case of long or annual leave.

Applications should be made on the prescribed leave form Z1 (attached as Annexure A).

- (ii) An employee must direct their leave forms through their immediate supervisors to the Head of Division. Under no circumstances may anyone proceed on leave unless the leave form has been signed by the Head of the Division. Should an employee proceed on leave without the leave form being duly authorised by the Head of the Division, the employee concerned will be deemed to absent from work without permission and will face the consequences of such behaviour.

- (iii) The immediate supervisor will decide whether the applicant can be spared from work and that there is no work outstanding. Should he/she grant the leave, he/she should establish via Persal whether the applicant has accrued the days to be taken. If so, he/she will forward the signed leave form to the Head of the Division. After the leave has been signed by the Head of the Division the applicant will be informed accordingly.

- (iv) Application in cases of emergency will be dealt with on merit and it is important that the officer should furnish reasons for and proof of the emergency to assist in making the decision to leave sought.

## **2.2 ANNUAL LEAVE**

### **2.2.1 Annual leave for full-time employees**

- (a) The annual leave cycle is from January to December each year.
- (b) An employee is entitled to the following annual leave in an annual leave cycle with effect from 1 January of each year:
- (i) Employee with less than 10 years service: 22 working days.
- (ii) Employee with more than 10 years service: 26 working days.



- (iii) Employees who are appointed after the commencement of an annual leave cycle, shall be entitled to annual leave on a pro rata basis determined as a fraction of the entitlement as per paragraph (b)(i), above.
  - (iv) The attendance register should correlate with leave forms submitted on the employee's file for auditing purposes.
- (c) At least 10 working days must be taken as leave days during the annual leave cycle (January – December). It is the manager's responsibility to ensure that every employee takes the 10 days leave. The remaining leave days must be taken before 30 June of the following year. The utilisation of this leave must take the service delivery requirements of the department into account. All remaining unused leave days will fall away after the extra 6 months period.
- (d) Employees should schedule their leave within an annual cycle and if, due to operational reasons they are not able to utilize the leave as scheduled, they should reschedule it as soon as possible.
- (e) To ensure that employees schedule their leave, supervisors must instate and maintain a leave-planning schedule, indicating when employees will utilise leave during the leave cycle.
- (f) The department may refuse an employee annual leave for pressing operational reasons. However, where leave due is not taken due to the Department's service delivery requirements, a maximum of 22 or 26 working days annual leave, will upon request be paid at the end of the 18 months period. Employee's request for payment of unused leave credits must be in writing. Note that there is an onus of proof on the employee that he/she earlier applied for leave in writing and was refused the specific leave when applying for it, due to operational reasons.
- (g) The department will pay the cash value of unused annual leave credits due to the employee at the termination of service, whether such termination is employee or employer initiated. This provision excludes capped leave as at 30 June 2000.
- (h) An employer may not permit or require an employee to take annual leave during any period of notice of the termination of service.

## **2.2.2 Annual leave for casual employees**

- (a) Casual employees are granted leave in terms of the Basic Conditions of Employment Act.
- (b) A casual employee is entitled to 1 day's leave for every 17 days worked. In the case of an hourly paid casual employee, the leave entitlement is 1 hour's leave for every 17 hours worked.
- (c) A casual employee may only take leave once he/she has accumulated the required number of days.



### **2.2.3 Utilisation of annual leave in respect of time off**

- (a) An employee may request to be released from duty (time off) at any time during a working day on condition that he/she takes one (1) day's annual leave for every 8 (eight) hours he/she is so released from duty. For this purpose every supervisor will keep a time off register to enter the number of hours an employee requested to be released (format of register attached as Annexure B).

Examples of such leave:

To attend to domestic problems for instance fixing of a leaking water pipe at home or to be at home when contractors need to install/deliver appliances; or to attend a function at his/her child's school.

- (b) The department shall request an employee to take one (1) day's annual leave for every 8 (eight) hours he/she was absent from duty without prior approval. The time off register referred to above would also apply.

Examples of such leave:

When an employee arrives late at work due to oversleeping, attending to family matters at home in official hours.

- (c) However the granting of the relevant leave as mentioned in paragraph (b) above does not preclude the department from taking disciplinary action.

## **2.3 CAPPED LEAVE**

- (a) Capped leave is leave accrued prior to 1 July 2000, which has been audited and converted to working days. Employees will retain capped leave and be allowed to utilise capped leave as discussed below. The Department will pay capped leave out to employees only in circumstances such as death, retirement or medical boarding.
- (b) Employees with capped leave may utilise their capped leave over and above their annual entitlement. The utilisation of this leave must take the service delivery requirements of the department into account.
- (c) Employees will be able to make use of their capped leave only when they have exhausted leave credits of previous and current leave cycles.

## **2.4 SICK LEAVE**

### **2.4.1 Sick Leave for full-time employees**

- (a) An employee qualifies for 36 working days sick leave with full pay over a three-year cycle. Unused sick leave credits lapses at the end of a three-year cycle.





- (b) An employee who is sick for 3 days or more must submit a medical certificate from a medical **practitioner and must inform the office of his/her illness before 10h00 on the first day of illness.**
- (c) In instances where a pattern in the use of sick leave has been established, a medical certificate may be required for absences of less than three working days.
- (d) The Minister of Public Service and Administration has determined that from the 1<sup>st</sup> April 2005, an employee who has been on sick leave on more than 2 occasions within an 8-week period must submit a medical certificate regardless of the duration of the absence. The medical certificate must state that the employee was unable to work due to a sickness or injury. Should the employee fail to submit the required medical certificate the leave will be covered by annual leave. If he/she does not have leave credits the leave will be covered by unpaid leave.
- (e) The 8-week period will be treated as a calendar month, and will start on the 1<sup>st</sup> day of an employee's absence due to an illness or an injury.
- (f) If an employee falls ill whilst on annual leave, such leave may be converted to sick leave, provided that a medical certificate is submitted. In these circumstances a medical certificate must be submitted irrespective of the number of days of sick leave taken.
- (g) The date on which the employee consulted the medical practitioner must be within the first three days of illness. If the employee only consulted a medical practitioner thereafter he/she must submit reasons therefore at the time of his/her return to work. If reasons are not acceptable to the department, the employee will be granted annual or leave without pay the period not covered in the medical certificate or by the period where a medical certificate is not required.
- (h) The certificate shall describe the nature of the illness and the period needed for recuperation. Supervisors must check that the dates on the medical certificate correspond with the dates on the leave application (for example a certificate should not state "2 days" and the employee applied for "5 days" sick leave).

#### **2.4.2 Sick leave for Casual Employees**

- (a) A casual employee is entitled to 1 day's sick leave for every completed month of employment.
- (b) If a casual employee has exhausted his/her sick leave, the HOD may grant leave without pay

#### **2.4.3 Utilisation of sick leave in respect of time off**

An employee may request to be released from duty (time off) at any time during a working day on condition that he/she takes one (1) day's sick leave for every 8 (eight) hours he/she is so released from duty. For this purpose every supervisor will keep a time off register to enter the number of hours an employee requested to be released.



Examples of such leave:

To consult a doctor, dentist, or any other medical practitioner when the employee has a health problem during working hours.

## **2.5 INCAPACITY LEAVE:**

- (a) An employee who has exhausted all his/her normal sick leave credits, but requires to be absent from work due to a temporary disability, may be granted sick leave with full pay on the following conditions:
  - (i) An employee must inform his/her supervisor about his/her illness, and
  - (ii) An employee must provide a medical certificate from a registered and recognised medical practitioner that certified such condition as a temporary disability in advance, except where circumstances do not permit (for example in case of an accident).
- (b) The HOD or the delegated authority may require the employee to obtain a second opinion before granting approval for temporary incapacity leave. The cost will be met from the Departmental budget.
- (c) The supervisor shall, during 30 working days investigate the extent of inability to perform normal official duties, the degree of inability and the cause thereof. Based on the investigation, the employer may extend the period of leave or require the employee to return to work. Should there be grounds for suspecting fraud/manipulation in this regard the employee will be dealt with in accordance with the Labour Relations Act.
- (d) The HOD may on the basis of medical evidence grant a maximum of 30 consecutive working days leave with full pay during which period an investigation must be conducted into the nature and extent of the incapacity. The investigation should be conducted in accordance with clause 10 (1) of Schedule 8 of the Labour Relations Act of 1995.
- (e) On the basis of medical evidence, the HOD may approve the granting of more than 30 days temporary incapacity leave on conditions that he/she will determine.
- (f) The HOD or the delegated authority shall specify the level of approval in respect of applications for incapacity leave.
- (g) The written consent of employees must be given to the medical practitioner before the doctor can reveal the nature and extent of their illness to a third party i.e. the HOD or HR Manager. The employee has the right to refuse such consent.
- (h) The staff members that deal with applications for leave should at all times treat such information with the necessary confidentiality.



- (i) In the event of an employee refusing/ failing to submit a medical certificate describing the nature and extent of the illness, the period of absence will be covered by annual leave (with the employee's consent) or unpaid leave.
- (j) Should the application for temporary incapacity leave be declined, the leave taken will be deducted from the employee's annual leave, capped leave or unpaid leave will be granted. The employee must agree to this in writing.

## **2.6 PERMANENT DISABILITY LEAVE:**

- (a) An employee whose degree of disability has been certified as permanent may be granted a maximum of thirty (30) working days paid sick leave or, such time which may be required by the department to finalise the process of redeployment/adapting duties/work circumstances/discharge.
- (b) An employee, whose degree of disability has been certified as permanent, but who can still render a service within another field of work, may be redeployed horizontally with retention of his or her benefits.
- (c) If the redeployment necessitates reallocation to a job of a lower grading, such should be explained well in advance and the continued utilisation of such an employee should in this regard be with his or her consent.
- (d) In instances where the employee's redeployment entail retraining or retooling, the department shall take requisite resources (time and budget) and potential returns into consideration before approving redeployment.
- (e) If the department or the employee is convinced that the employee will never be able to render an effective service at his or her level or rank, the employee may proceed with an application for termination of service due to ill health 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).

## **2.7 LEAVE FOR OCCUPATIONAL INJURIES/DISEASES**

- (a) An employee who, as a result of his/her work, sustained an occupational injury or contracted an occupational disease, must be granted occupational and disease leave for the duration of the period he/she cannot work.
- (b) The HR Manager is obliged to manage and control the leave so granted by means of requesting regular/monthly progress reports of the occupational injuries/diseases sustained/contracted. These reports must be submitted to the Compensation Commissioner to evaluate and consider payment of medical expenses and also to determine permanent disability, if any. In the event where the employee's absence is longer than 18 months, the Compensation Commissioner's approval is required for further payment.
- (c) Sick leave shall be granted for injuries at work. As soon as the Workman Compensation Unit at the Department of Labour confirms that the injury is



classified as an occupational injury by paying the claim, the sick leave must be converted to special leave.

## **2.8 FAMILY RESPONSIBILITY LEAVE**

- (a) This leave applies to full time and casual employees.
- (b) An employee will receive three (3) paid working days per annual leave cycle when his or her:
  - (i) spouse/life partner gives birth or
  - (ii) child, spouse or life partner is sick.
- (c) In the event of death of an employee's spouse/life partner/child or an immediate family member he/she will receive five (5) paid leave days per annual leave cycle.
- (d) The granting of family responsibility leave must be taken with due consideration of the employee's cultural responsibilities. The amount of family responsibility leave taken according to the above shall not exceed five (5) days per annual leave cycle.
- (e) The department shall require proof of an event for which this type of leave is required.
  - (i) In the event of death the employee must attach a death certificate.
  - (ii) In the event of sickness the employee must attach a medical certificate.
- (f) An employee's unused entitlement to leave in terms of this item lapses at the end of the annual leave cycle.
- (g) The granting of family responsibility leave must be taken with due consideration of the employee's cultural responsibilities. Where the latter discretion is exercised.
- (h) Employees who have used all their family responsibility leave may:
  - (i) use available annual leave, if he/she applies to use his/her annual leave for this purpose; or
  - (ii) use up to 184 days of unpaid leave.

### **2.8.1 Utilisation of family responsibility leave in respect of time off**

The department will request an employee to take one (1) day family responsibility leave for every 8 (eight) hours he/she is out of the office for this purpose. The hours will be entered into a register kept by the Supervisor.

Examples of such leave:



When an employee attends work as usual in the morning and leaves the office later in the day to attend to a sick child, or attend a funeral of an immediate family member, or when an employee makes arrangements with his/her supervisor to take a sick child to a medical practitioner before coming to the office.

## **2.9 MATERNITY LEAVE**

### **2.9.1 Maternity leave for full-time employees**

- (a) An employee is entitled to 4 consecutive months' paid maternity leave, to commence:
  - (i) At least 4 weeks before the expected date of birth; or
  - (ii) On a date certified by the attending medical practitioner as necessary for the employee's health or that of the unborn child.
- (b) Should an employee require starting maternity leave later than the stipulated 4 weeks period, prior approval must be given by the HR Manager, on condition that a medical certificate certifying her as fit for duty has been submitted.
- (c) If anything happens to the employee at work during this period of her pregnancy, the employer is not liable for any damages caused in the case of an accident.
- (d) For at least 6 weeks after the birth, no employee may return to work unless the attending medical practitioner certifies that the employee is fit to do so. An employee must apply in writing and attach supporting documentation if he/she wishes to return to work before the end of the 4 months maternity leave period. The HR Manager must approve the request before the employee resumes work.
- (e) Maternity leave may be extended upon application by granting:
  - (i) Sick leave as a result of a medical complication;
  - (ii) Unpaid leave up to 184 days; or
  - (iii) Annual leave.
- (f) An employee who experiences a miscarriage/stillbirth/termination of pregnancy on medical grounds during the first two trimesters shall be granted:
  - (i) sick leave; or
  - (ii) temporary incapacity leave if sick leave credits have been exhausted
- (g) An employee who, during the third trimester of the pregnancy, experiences a miscarriage, still birth or termination of pregnancy on medical grounds, shall be eligible for:
  - (i) 6 consecutive weeks maternity leave; where-after



- (ii) sick leave may be granted in the event of a medical complication.
- (h) An employee who experiences a miscarriage, stillbirth, or termination of pregnancy on medical grounds, after the commencement of maternity leave shall also qualify for:
  - (i) 6 consecutive weeks maternity leave; where-after
  - (ii) sick leave may be granted in the event of a medical complication; and
  - (iii) the period prior to the miscarriage, stillbirth or termination of pregnancy shall be regarded as special leave with full pay.
- (i) Maternity leave may be interrupted if:
  - (i) the baby is born prematurely and is hospitalised during maternity leave;
  - (ii) the baby becomes ill and is hospitalised for a period longer than a month during the maternity leave;
- (j) If an employee choose to interrupt her maternity leave and fail to return to work after six weeks, such a period must be covered with annual leave or unpaid leave if she does not have enough annual leave available.

## **2.9.2 Maternity leave for casual employees**

A casual employee is entitled to a maximum of 4 consecutive months of unpaid maternity leave during their contract period.

## **2.10 ADOPTION LEAVE**

- (a) This leave does not apply to casual employees.
- (b) An employee who adopts a child who is younger than two years qualifies for a maximum of 45 working days adoption leave. For extension of this leave the following shall apply:
  - (i) Annual leave may be used; or
  - (ii) The HOD may grant unpaid leave to a maximum of 184 days
  - (iii) If both spouses or life partners are employed in the public service, both partners qualify for adoption leave but the combined leave may not exceed 45 working days.
- (c) Adoption leave can commence at least a week before the arrival of the child and this week is inclusive of the 45 days.



- (d) An employee must provide proof of adoption.

## **2.11 APPLICATION SCOPE**

This policy will apply to all officials of the Department of Environment and Nature Conservation. An employee shall receive leave of absence from work in terms of provisions of this policy if he or she is employed either on a full time/part time/casual basis in terms of the Public Service Act, 1994.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by several loops and a final vertical stroke.

### **3. POLICY FRAMEWORK**

#### **3.1 IDENTIFICATION AND CONSULTATION OF STAKEHOLDERS**

This policy document was distributed to staff members within the department and their feedback and inputs are included where changes were suggested and motivated. Information sessions were also held as part of the consultation process. The recognized Labour Unions are not excluded in the process as they do have shop stewards within the department, and them being part of the departmental staff, thus had the opportunity to participate in the process. Furthermore, it needs to be mentioned that the department cannot negotiate with the Unions (Organized Labour) as a separate entity on this policy. Especially, because there are matters of mutual interests that must be dealt with in the formal structures created for this purpose, such as the Provincial Bargaining Council.

#### **3.2 TIMEFRAMES**

In August 2007 a draft of this policy was reviewed by the departmental legal services and policy unit who submitted their comments on the policy. After incorporating those comments a second draft was sent to the policy and planning unit on the 14-18 February 2008 to align and re-check the policy. 02- 14 April 2008, the policy unit used the soft copies of this policy to align it with the provincial template. This policy was analysed on the 11 March 2011 by the policy development unit.

#### **3.3 IMPLEMENTATION STRATEGY**

It is the responsibility of each Head of department to ensure that this policy is carefully followed within the department. All managers should make members of their employees aware of the obligation to familiarize themselves with and follow this policy.

An implementation plan will be drafted which will outline how and when this policy will be implemented. The plan will be drafted two months after the implementation date of this policy. In order to ensure adequate implementation of this policy the human resource unit will compile an infrastructure investment (in terms of human capital) and policy management plan. The plan will be updated on an annual basis and will contain details on future guidelines for this policy. The financial implications if any will be indicated on the plan in order to ensure that funds are available or availed.

The implementation date for this policy is 1 November 2011

#### **3.4 FINANCIAL IMPLICATIONS**

This policy will be funded by the Human Resource Unit.

#### **3.5 COMMUNICATION**

This policy should be communicated through the respective directorates. However, the most important unit to contact would be Human Resources





### 3.6 COMPLIANCE, MONITORING AND EVALUATION (M&E)

The attendance register should correlate with leave forms submitted on the employee's file for auditing purposes.

To ensure that employees schedule their leave, supervisors must instate and maintain a leave-planning schedule, indicating when employees will utilise leave during the leave cycle.

### 3.7 POLICY REVIEW

This policy will be reviewed when the need arises or in case of the occurrence of extenuating circumstances (political mitigation, or pronouncement by legislation and/or regulations). The contact person for this policy will be required to submit all relevant information pertaining to this policy in conjunction with a signed memo with all amendments (addition or omission) during the third quarter annually.

***The exception***, the Policy development unit will be conducting all extenuating reviews throughout the year, therefore it is paramount that any new information received be submitted to this unit, in order to coordinate the review process of this policy.

### 3.8 POLICY IMPACT

This policy document desires to provide guidelines and procedures to regulate an employee's absence from duty by means of granting leave of absence within the framework, provisions and measures as set out within this document. It wishes to educate and inform both the employer and employee on their rights of how to deal with absenteeism.

### 3.9 INTERIM MEASURES

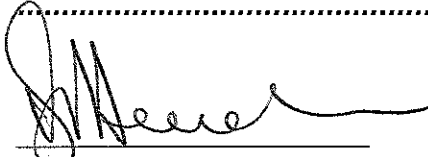
This is an interim policy document for this Department until such time that a provincial policy has been developed.

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#### 4. ADOPTION OF POLICY

Approved / ~~Not Approved~~  
Comments:

.....  
.....  
.....



**D VAN HEERDEN**  
**HEAD OF DEPARTMENT**

2011/10/11  
**DATE**



