



**DEPARTMENT COMMUNITY SAFETY &
TRANSPORT MANAGEMENT**

North West Provincial Government

REPUBLIC OF SOUTH AFRICA

DEPARTMENTAL LEAVE POLICY

**DEPARTMENT OF COMMUNITY SAFETY AND TRANSPORT MANAGEMENT
HUMAN RESOURCES POLICY**

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PREAMBLE

The North West Department of Community Safety and Transport Management, in its attempt to empower its employees, deemed it necessary to formulate a policy on Leave of Absence to enable it to regulate the granting of leave of absence properly within the Department.

1. PURPOSE

The purpose of this Policy is to regulate the granting of leave of absence in the Department, within the framework of provisions and measures.

2. SCOPE OF APPLICATION

This policy is applicable to all employees of the North West Department of Community Safety and Transport Management.

3. LEGISLATIVE FRAMEWORK

- 3.1** Determination of Leave of Absence in the Public Service, 2018.
- 3.2** Public Service Regulation 2016 Chapter 4, Part 2(48).
- 3.3** PSCBC Resolution 7 of 2000, section (7.1-7.10) which provides guidance in managing leave of absence in the public service.
- 3.4** PSCBC Resolution 3 of 1999, section (2-11) which provides guidance in managing leave of absence within the public service.
- 3.5** PSCBC Resolution 1 of 2012, section (8, 14-15) which provides for guidance in managing leave of absence within the public service.
- 3.6** The Basic Conditions of Employment Act, Act 75 of 1997, as amended.
- 3.7** Labour Relations Act No. 66 of 1995 as amended.
- 3.8** Public Finance Management Act No. 1 of 1999 as amended by Act 29 of 1999.
- 3.9** Public Service Act No. 103 of 1994.

4. ABBREVIATIONS

- 4.1 BCEA** "means Basic Conditions of Employment Act, Act No. 75 of 1997;"
- 4.2 BSCBC** "means Public Service Co-ordinating Bargaining Council;"
- 4.3 HOD** "means Head of the Department of Community Safety and Transport Management;"

5. DEFINITIONS

- 5.1 Annual Leave Cycle** "means the period commencing on 01 January of each year;"
- 5.2 Calendar days** "means period inclusive of all days in a month including public holidays;"
- 5.3 Calendar month** "means a period of extending from the first to the last day of a month, both days inclusive, e.g 01-31 January;"
- 5.4 Capped Leave** "means converted vacation leave credits as at 30th June 2000;"
- 5.5 Current Leave cycle** "means period 01 January to 31st December of the current year;"
- 5.6 Previous Leave cycle** "means a period 01 January to 31 December of the previous annual leave cycle;"
- 5.7 Three-year sick leave cycle** "means a period of three (3) years (commencing 01 January 2003;"
- 5.8 Employee** "means all employees of the Department employed in terms of the Public Service Act of 1994, the Basic Conditions of Employment Act of 1998, as amended and includes contract workers, interns, volunteers and prospective employees;
- 5.9 Leave** "means, concession of absence from work provided for in PSBC Resolution 7 of 2000;"
- 5.10 Casual worker** "means a person a person employed on a day-to-day basis who is paid a daily wage and who does not work more than twenty (24) hours a month;"
- 5.11 Remuneration** "means the employee's annual basic salary;"
- 5.12 Contract worker** "means a person employed for a fixed term but excluding a casual worker or employee to whom a retirement age applies;"
- 5.13 Immediate family** "means a spouse/Life partner, child, parents, brothers, sisters (siblings), in-laws, grand-parents, grand-children, adoptive parents and adopted children;"
- 5.14 Rehabilitation** "means to restore or bring to a condition of health or useful activity;"
- 5.15 Trimester** "means a period of three (3) months;"
- 5.16 Working days** "means Monday to Friday, excluding weekends and public holidays;

- 5.17 Spouse** "means a person who is legally married according to a court of law, including persons who were joined in marriage under a customary law e.g (lobola);"
- 5.18 Life Partner** "means a person who takes the position of a husband/wife but commonly not married lawfully to qualify as spouse;"
- 5.19 Medical Practitioners** "means all practitioners as defined by the Health Professionals Council of South Africa (Medical and Dental Practitioners);"
- 5.20 Unpaid Leave** "means leave granted when all other leave is exhausted. It can be authorised unpaid leave or unauthorised unpaid;"
- 5.21 Fixed Term contract** "means an employee appointed on a specified fixed term period e.g 01 April 2017-31 March 2018;"
- 5.22 Permanent Incapacity** "A permanent physical or mental condition which substantially limits prospects of entry into or advancement in employment;"
- 5.23. Surrogacy** "is when another woman carries and gives birth to a baby for the Intended parents. The woman who gives birth to the child will be treated as the mother; however, parental responsibility can be transferred by either an adoption or parental order.
- 5.24. Commissioning Parents** "The parents wishing to have the child, and therefore enters into a surrogate motherhood agreement with a surrogate mother.
- 5.25. 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".

6. POLICY STATEMENT

The Department is committed to provide measures and procedures to ensure that Leave of Absence is granted in a fair, equitable and consistent manner.

7. CLASSIFICATION OF LEAVE

7.1 VACATION LEAVE

7.1.1 Vacation Leave entitlements

- a. Employees shall accrue the following number of days leave (working days) per annual leave cycle, on a pro rate basis, which takes effect annually and becomes available for utilisation from 1 January each year:
 - i. Employees with less than 10 years service: **22** working days.
 - ii. Employees with more than 10 years service: **30** working days.
 - iii. Employees appointed on a fixed term contract: **22** working days
- b. For each fifteen (15) consecutive days (including weekends) vacation leave taken without pay, the employee's annual leave entitlement shall be reduced by 1/24th.

7.1.2 Utilization of vacation leave

- a. A period of ten (10) working days leave per annual leave cycle will become compulsory vacation leave. The ten (10) days should be reduced proportionally if an employee is in service for less than twelve (12) months. Supervisors must ensure that employees use their annual leave entitlements during the twelve months leave cycle (1 January to 31 December). Employees must plan their annual leave at the start of a leave cycle. Leave plans must be submitted together with the leave forms for a particular leave cycle. The closure of the Department of Community Safety and Transport Management between Christmas and New Year's Day should be taken into account with the planning of the leave. Managers must ensure that a leave planner of his/her component is submitted to the Directorate: Human Resource Management (HRM) within the first month of the commencement of

- the leave cycle, but not later than the end of February of the relevant leave cycle.
- b. Annual leave entitlements should only in exceptional circumstances be carried over into the extra six (6) months period for utilisation (1 January to 30 June of the following year). The purpose of the six (6) months grace period is to re-schedule leave that could not be used due to service delivery requirements in the preceding leave cycle.
 - c. Supervisors should not unreasonably refuse to grant leave to employees who apply, although they should take into consideration service delivery requirements. If leave is not granted, the supervisor should indicate on the leave application the reason for denying the leave, as well as an alternative date(s) for leave to be taken within the prescribed 18-month period, for record purposes.
 - d. For each 15 consecutive calendar days leave taken without pay, the employees' annual leave entitlement shall be reduced by 1/24th.
 - e. 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.
 - f. 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 notify the employee that if such application is not received within 2 working days, the leave period will be regarded as unpaid leave
 - g. 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. Employees must be cautioned timeously if, at the end of the relevant leave cycle, they have not utilised their leave entitlements.

7.1.3 Unused vacation leave credits

- a. Unused vacation leave credits shall lapse at the end of the eighteen (18) months period. This is also applicable to employees who have not utilised vacation leave credits due to scholarships locally or abroad.
- b. Unused vacation leave credits shall only be paid out in exceptional cases and will be subjected to approval by the Head of Department.
- c. 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 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. Employee's requests for payment of unused leave credits must be in writing and accompanied by written proof of suspension.

7.2 NORMAL SICK LEAVE

7.2.1 Sick Leave Entitlements

- a. Employees shall be granted thirty-six (36) working days sick leave with full pay in a three-year cycle. The current sick leave cycle started 01 January 2016 calculating to three years. Any unused sick leave credits shall lapse at the expiry of the three year cycle.
- b. For each fifteen (15) consecutive calendar days vacation leave taken without pay, the employee's thirty-six (36) days sick leave entitlement shall be reduced by 1/72nd per sick leave cycle.

7.2.2 Utilization of Sick Leave

- a. If three (3) or more consecutive days are taken as sick leave, a medical certificate from a registered medical practitioner is required, citing the reason and the duration of absence.
- b. Medical certificates not describing an employee's illness for sick leave taken during the normal sick leave cycle (36 working days in 3-year cycle) should be accepted. The Medical Practitioner must, however, indicate the period that the employee had been booked off.

- c. Sick leave without a medical certificate for periods of more than one (1) day at any time may only be granted for a maximum of three (3) working days per annum. A medical certificate must cover any further absence.
- d. The 8-week sick leave rule will apply in all cases where an employee applies for sick leave without a medical certificate. This in effect means that when sick leave, without a medical certificate, had been granted, sick leave for the next 8 weeks, without a medical certificate, will not be granted.
- e. In the event of abuse of the normal sick leave, e.g. if there appears to be a pattern of regular sick leave on Mondays and Fridays up to a maximum of 3 days, an employee shall produce a medical certificate describing the nature and extent of the illness at the request of the supervisor before the granting of sick leave with full pay, even in cases of sick leave less than three (3) days. Action should be taken as soon as an employee's absenteeism reaches an unacceptable level. The supervisor should not wait until the sick leave provision has been exhausted.
- f. Failing to submit a medical certificate in circumstances where a medical certificate is a prescribed requirement will result in the sick leave being regarded as vacation leave with full pay or, if the employee does not have sufficient vacation or capped leave with full pay to his/her credit, the granting of vacation leave without pay.
- g. If an employee becomes ill while on duty and he/she has to leave the place of work within four hours after starting time, it will be regarded as sick leave utilised. Any absences from work due to ill health (after four hours from starting time) will be regarded as on duty for the full day.
- h. Normal sick leave may be granted in the event where an employee has to –
 - i. consult a doctor, therapist etc for reasons related to the employees health/wellness; or
 - ii. go for maintenance work for equipment used as a result of his /her disability.
- i. Time off for absence from duty as set out in paragraph (g) above, should be monitored by supervisors and an application form for normal sick leave must be submitted to the Component: Human Resource Management for every eight (8) hours away from office, supported by documentary proof of such events.

- j. 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. The Head of Department may require the necessary proof of such events or occurrences to properly monitor the utilisation of sick leave.
- k. An employee shall retain his/her sick leave credits in respect of a particular sick leave cycle, when the employee-
 - is transferred within a department or between departments; or
 - is appointed in terms of the Public Service Act, 1994 without a break in service.
- l. Where an employee has exhausted his/her normal sick leave, temporary incapacity leave may be considered.

7.2.3 Unused Sick Leave credits

- a. Unused sick leave credits shall lapse at the end of a three-year cycle. In considering applications for paid sick leave in excess of 36 days, management will take into account, inter alia, the employee's previous leave record.

7.3 INCAPACITY LEAVE

7.3.1 Temporary Incapacity Leave

- a. An employee whose normal sick leave credits in a cycle of (36 days) have been exhausted, and who, according to the relevant medical practitioner, requires to be absent from work due to a disability which is not permanent, may, at the discretion of the Head of Department or delegated authority be granted additional sick leave (temporary incapacity leave) with full pay, provided that:
 - i. His/her supervisor is informed that the employee is hospitalised; and/or
 - ii. A relevant registered medical and/or dental practitioner has duly certified the medical condition in advance as temporary disability, except where conditions do not allow the employee to apply in advance.
- b. The Head of Department or Delegated authority may grant a maximum of thirty (30) consecutive working days temporary incapacity leave, during which period the Directorate: Human Resource Management (HRM) shall proceed with an investigation to determine the nature and extent of the incapacity. Investigations

shall be in accordance with item 10 (1) of Schedule 8 in the Labour Relations Act of 1995, as amended.

- c. The Head of Department or Delegated authority may approve the granting of additional temporary incapacity leave on conditions he/she shall determine, based on medical evidence. The Head of Department or Delegated authority may require the employee to obtain a second opinion before granting approval for additional temporary incapacity leave. Expenditure in this regard will be met from the Department of Community Safety and Transport Management's funds.
- d. Requests for planned temporary incapacity leave must be submitted to the Component: HRM at least thirty (30) working days before the absence is required, where possible (e.g. in case of a scheduled operation).
- e. If the employee is of the opinion that he/she has been unfairly treated with regards to the granting of temporary incapacity leave, he/she has the right to follow the prescribed grievance procedure and the relevant dispute resolution procedures in order to settle the matter.

7.3.2 Permanent Incapacity Leave

- a. An employee whose degree of incapacity has been certified by a medical practitioner as permanent shall, with the approval of the Head of Department or delegated authority be granted a maximum of thirty (30) working days paid permanent incapacity leave, or such additional number of days required by the Department of Community Safety and Transport Management to finalise the "investigation" with a view to: -
 - i. alternative employment;
 - ii. Adapting duties or work circumstances to accommodate the incapacity; or
 - iii. Termination of services owing to continued ill health as a last resort.
- b. An employee, whose degree of incapacity has been certified as permanent but who can still render a service, may be redeployed horizontally with retention of his/her benefits.
- c. If the redeployment necessitates reallocation to a job of a lower grading, it should be *after* consultation with the affected employee and his/her consent has been obtained.
- d. In instances where the employee's redeployment entail retraining and/ or re-skilling (special devices), the Department of Community Safety and Transport

Management shall take requisite resources (time and finances) and potential returns into consideration before approving redeployment. The redeployment of an employee's services should ensure the optimal utilisation of his/her competencies and should not compromise service delivery.

- e. If both the Department of Community Safety and Transport Management and the employee are convinced that the employee's health status does not allow him/her to perform any type of duties in his or her current position, level or rank, the employee and the Department of Community Safety and Transport Management shall proceed with an application for termination of service on the grounds of ill-health, in terms of the Government Employees Pension Fund.

7.4 LEAVE FOR OCCUPATIONAL INJURIES AND DISEASES

- a. Employees who as a result of their work, suffer occupational injuries or contract occupational diseases shall be granted occupational injury and disease leave for the duration of the period they cannot work, provided the Compensation Commissioner accepts it as injury on duty.
- b. If an employee suffers a work-related injury as a result of an accident involving a third party, the Department of Community Safety and Transport Management may grant him/ her occupational injury and disease leave, provided that the employee –
 - i. submits a claim for compensation against the third party; and
 - ii. 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 costs arising from the accident.
- c. The Head of Department or Delegated Authority shall be obliged to take reasonable steps to assist an employee to claim compensation in terms of COIDA.

7.5 PARENTAL LEAVE

7.5.1. Maternity Leave

a. Maternity Leave entitlement

- i. Employees are entitled to four (4) consecutive months paid maternity leave. There is no limitation on the number of confinements.
- ii. Maternity Leave is calculated in calendar days (e.g. if an employee's maternity leave commences on 15th May, the four months expires on 14 September).

b. Commencement of Maternity Leave

i. Maternity Leave may commence

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.

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

- ii. A medical certificate indicating the expected date of delivery, start date as well as end date of maternity must accompany the application for maternity leave. In the event of maternity leave commencing at a later date, the medical certificate must clearly state that the employee is fit to continue with her normal duties until a date before the expected date of delivery.

The medical certificate must be submitted to the Directorate: Human Resource Management prior to the employee going on maternity leave. Should no medical certificate be submitted, it would be assumed that the maternity leave commenced four (4) weeks before the date of birth of the child.

- iii. No employee may return to work within six (6) weeks after the birth of her child, unless a medical practitioner/ midwife certifies that she is fit to do so.
- iv. 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 where after, the granting of sick leave as a result of a medical complication shall apply in the event of a medical complication.

c. Extension of Maternity Leave

Maternity leave may be extended upon application by:

- The granting of sick leave as a result of a medical complication;
- The granting of up to 184 calendar days unpaid leave; or
- The granting of annual leave.

d. Termination of Pregnancy on Medical grounds

- i. An employee who during the third trimester of her pregnancy experiences a miscarriage, still-birth or termination of pregnancy on medical grounds is entitled to:
 - six (6) consecutive weeks maternity leave with full pay; and
 - thereafter she may utilise sick leave
- ii. The same conditions will apply in the event of a miscarriage; still-birth or termination of pregnancy on medical grounds after paid maternity leave takes place.
- iii. An employee whose child is born and passes away a few days thereafter, is not allowed to return to work within six weeks after the birth of the child. Such employees may be granted 6 weeks maternity leave.
- iv. Miscarriage/still-birth/termination of pregnancy experienced by an employee during the first two trimesters of the pregnancy will be regarded as normal sick leave.

e. Interruption of Maternity Leave

i. Maternity leave may be interrupted if:

- The baby is born prematurely and is hospitalised during maternity leave: or
- The baby becomes ill and is hospitalised for a period longer than a month during maternity leave.

7.5.2 Prenatal Leave

- i. Pre-natal leave is a new benefit for pregnant employees with effect from **01 January 2013** in terms of which a pregnant employee will be entitled to eight (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.
- ii. An employee can utilise a full day or part of a day for pre-natal leave. The HRM shall maintain a system to record episodes where the employee utilised part of a day. One (1) day's pre-natal leave shall be deducted once the duration of absences equates the employee's prescribed daily working hours (8 hours).
- iii. The application for pre-natal leave shall be supported by reasonable proof that the employee attended a doctor's appointment and/or went for tests related to the pregnancy.
- iv. An employee who has used all her pre-natal leave may, subject to the approval of the Head of the Department, apply to use available annual leave and/or unpaid leave.
- v. Absences related to Medical complications during the pregnancy shall be covered by sick leave. All other maternity leave provisions, as defined in the Determination and Directive on Leave of Absence, remain unchanged.

7.5.3. Paternity leave

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.

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

- use his/her part or all of 5 working days family responsibility leave provided for or
- use available annual leave; or
- Use up to 184 calendar days of unpaid leave.
- An application for paternity leave shall be supported by reasonable proof.

7.6. Adoption Leave

- a. An employee who adopts a child, who is younger than two (2) years on the day the child is received by the adoptive parents, shall qualify for adoption leave to a maximum of forty-five (45) working days.
- b. If both spouses or life partners are employed in the Public Service, they will both qualify for adoption leave, provided that the combined leave taken does not exceed forty-five (45) working days.
- c. An employee requesting adoption leave must declare his/her spouse's/-life partner's employment status.
- d. An employee requesting adoption leave has to provide proof of adoption and a birth certificate of the child.

e. Extension of Adoption Leave

If the employee wishes to extend the period of adoption, the absence must be covered by:

- The granting of up to 184 calendar days unpaid leave; or
- The granting of annual leave.

7.7 Family Responsibility Leave

- a. With effect from 1 January 2013 employees would henceforth be entitled to the following family responsibility leave benefits:**
- b. Five (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.

c. The "Child" for purposes of paragraph (b) above means the employee's son or daughter, who is under 18 years of age.

d. Five (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.

Note well: for the purpose of family responsibility leave in the event of death of the employees child, that "Child " in this context is defined as the employees son or daughter, and where applicable son or daughter in law of any age.

e. Immediate family member for purposes of paragraph (c) 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.

f. An application for family responsibility leave shall be supported by reasonable proof.

g. 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.

h. For the purposes of paragraph (f), 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.

i. An application for family responsibility leave should be supported by reasonable proof to demonstrate the severe special needs of the employee's child.

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

- Use available annual leave; or use up to 184 calendar days of unpaid leave.

k. 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.

- I. 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.

7.8. SURROGACY LEAVE

a). Surrogacy is when another woman carries and gives birth to a baby for the intended parents. The woman who gives birth to the child will be treated as the mother; however, parental responsibility can be transferred by either an adoption or parental order.

b). With effect 8 June 2018 an employee who is commissioning parent in terms of a surrogate motherhood agreement contemplated in the Children's Act, 2005 will be entitled to four (4) consecutive months paid surrogacy leave from the date of the birth of the child.

c). 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

d). 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;

e). The surrogate mother or her husband, partner or relatives has no rights of parenthood or care of the child; 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;

f). The surrogate motherhood agreement may not be terminated after the artificial fertilisation of the surrogate mother has taken place; and the child will have no claim for maintenance or of succession against the surrogate mother, her husband or partner or any of their relatives.

In terms of section 292 (1) of the Children's Act, 2005 no surrogate motherhood agreement is valid unless: –

- The agreement is in writing and is signed by all the parties thereto;
- The agreement is entered into in the Republic;
- 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;

- The surrogate mother and her husband or partner, if any, are at the time of entering into the agreement domiciled in the Republic; and
- The agreement is confirmed by the High Court within whose area of jurisdiction the commissioning parent or parents are domiciled or habitually resident.
- 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.
- If both parents are employed in the Public Service, only one (1) such parent will qualify for the surrogacy leave.
- An employee who is a surrogate mother in terms of the Children's Act, 2005 will with effect from 8 June 2018, be entitled to six (6) consecutive weeks leave after the birth of the child.
- 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.
- It is incumbent of an employee who is a commissioning parent or a surrogate mother in terms of a surrogate motherhood agreement contemplated in the Children's Act, 2005 and confirmed by the High court, to notify an employer in writing at least one (1) month before the child is expected to be born, of the date on which the employee intends to commence with the surrogacy leave.
- An employee's application for surrogacy leave shall be supported by a surrogate motherhood agreement confirmed by the High Court.

7.9. NOMINATION OF BENEFICIARIES AND LEAVE PAYOUTS

- a. 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.
- b. If an employee dies, and has not nominated a beneficiary, the leave payout may be paid:
 - In full to the spouse/life partner of that employee; or

- 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
- If there are no children, to the employee's estate.

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

- a. With effect from 1 January 2013** the entitlement for Office bearers or shop stewards has increased to 15 working days paid leave per annum for activities related to his/her union position.
- b.** 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.
- c.** 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.
- d.** 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.
- e.** 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 electronically together with supporting documentation.
- f.** 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.
- g.** Approved applications shall be captured on PERSAL system which is in use in the Department.
- h.** 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.

- i. An affected shop steward must submit a formal request with supporting documentation to substantiate the request.

7.11. SPECIAL LEAVE

7.11.1. Leave for Examination purpose

7.11.1.1. One (1) working day Special Leave with full pay may be granted to an employee for each day on which he/she sits for an examination as specified in the official time table and one (1) working day for studying for examination/s, which in the opinion of the Department has the objective of developing and improving the skills of the employee concerned for career in the Public Service. In total the employee shall be granted (2) working days per examination paper/module.

7.11.1.2. Study day/s shall not be granted after examination has been written.

7.11.1.3. Special Leave for examinations may only be granted once. An employee must utilize vacation/annual or unpaid leave in cases where he/she repeats a subject/module/course.

7.11.1.4. The examination time-table from the registered institution where the employee is studying must be submitted before study leave may be considered/granted. Evidence (invigilator's report) must be submitted within five (5) working days after writing the last subject/course.

7.11.1.5. If the special leave granted precedes and succeeds a day of rest, such day(s) of rest(s) although to be recorded must be disregarded when calculating the number of special leave days to be granted to the employee.

7.11.1.6. Special leave may not be granted for writing of class tests.

7.12.2 Full Time Study Leave: Local or International (Employee initiative)

7.12.2.1. Study leave may be granted to an employee by the Head of Department or Delegated authority if he/she is satisfied that the studies are in the fields which is in the interest of the Public Service in the following circumstances:

- 7.12.2.1.1. Full time studies at a recognized educational institution within the Republic or abroad.
- 7.12.2.1.2. Special leave with full pay may be granted to an employee for the duration of his/her studies period.
- 7.12.2.1.3. The course undertaken should be intended to acquire critical scarce skills, guided by the Departmental Workplace Skills plan.
- 7.12.2.1.4. For international studies, there must be evidence to the effect that local academic institutions cannot offer the course applied for.
- 7.12.2.1.5. In the event a course offered by International Academic Institution is preferred to the one offered by the local academic institution, the HOD is to determine the merit of each case.
- 7.12.2.1.6. Documentary proof of a field of study for which special leave is required including the total number of leave days required, must be submitted together with special leave application.
- 7.12.2.1.7. The study leave shall not be granted simultaneously with a bursary.
- 7.12.2.1.8. If the employee was previously on study leave or granted bursary then the employee must first complete his/her contractual obligations before he/she can be considered for another opportunity.
- 7.12.2.1.9. Study leave shall be granted to an employee who complies with the circumstances as set out above, when an employee provides the Department with the necessary documentary proof.

7.13.3. Part-Time study and/or Attendance of classes/lectures during official Hours

- 7.13.3.1. Special leave may be granted to an employee to attend classes/lectures/tutorials or practical sessions during working hours for any subject in pursuit of approved studies.
- 7.13.3.2. Where an absence period covers a full working day, an employee must apply to utilize his/her annual leave days to cover the absence.
- 7.13.3.3. When an employee attends classes/lectures anytime during the normal official hours of work (08h00-16h30), hours accumulating to 8hrs must be converted to one (1) working day which will be taken off the annual leave days/credit. Register/s must be kept where hours/minutes are recorded.
- 7.13.3.4. When the employee knock off thirty (30) minutes before his/her official knock-off time to attend classes/lectures, one day Special leave with full pay may be granted for every full eight hours an employee has been released from duty. Register/s must be kept where hours/minutes are recorded.

- 7.13.3.5. Unpaid leave may be granted where the annual leave credits have been exhausted.
- 7.13.3.6. Line Managers should keep a register for time-off and proof/letter confirming attendance of classes/lectures and must submit as proof to Human Resource Management.
- 7.13.3.7. The employee and the supervisor or manager to develop leave plan at the beginning of the year or after the registration of an employee as a student at an institution. This is done in order to cater for the service delivery requirements of the department.

7.14.4. Block Attendance including research work as a requirement towards completion of employee's studies

- 7.14.4.1. Special leave may be granted to an employee for block attendance/and or including preparatory and research work as a requirement towards completion of employee's studies.
- 7.14.4.2. Documentary proof of a field of study for which special leave is required including the total number of leave days required, must be submitted together with special leave application.
- 7.14.4.3. Special leave up to a maximum of 20 working days per leave cycle may be granted and thereafter annual leave may be utilized.
- 7.14.4.4. Unpaid leave may be granted where annual leave and special leave days are exhausted.
- 7.14.4.5. The provision must be applied once only in cases where a person does preparatory and/or research work with a view to writing an end of the year examination.
- 7.14.4.6. Twenty (20) working days for block attendance including research work may only be granted once, an employee must utilize vacation/annual or unpaid leave in cases where he/she repeats.

7.15.5 Resettlement Leave

- 7.15.5.1. Special leave with full pay may be granted to an employee who is transferred on state expense from one Province/Headquarters to the other.
- 7.15.5.2. One (1) working day special leave with full pay limited to a maximum of three (3) working days may be granted to an employee who is transferred at state expense to arrange accommodation, supervise the

packing/loading and unpacking/unloading of personal effects and arrange school for children.

7.15.5.3. Proof of appointment on transfer or transfer letter must be attached to the application for leave.

7.16.6. Participation in sports, arts and culture

7.16.6.1. Special leave with full pay for a maximum of 10 (ten) working days per annum, may be granted to an employee when he/she:

7.16.6.1.1. Is selected by a national/provincial recognized sports association to take part , as a member of an organized sports group, in a sporting tour as a competitor, coach, manager or official to represent the Province/South Africa.

7.16.6.1.2. Accompanies a foreign national team visiting the Republic, as a representative of the South African sports association organizing the tour.

7.16.6.1.3. Documentary proof from the Executive office of such association should be submitted in advance with the special leave application for service delivery purposes.

7.17.7. Natural Disaster

7.17.7.1. Special leave with full pay may be granted to an employee if the area in which he/she is staying or working is struck by a natural disaster as declared by the relevant Authorities and it is impossible for the employee to continue with his/her duties at that time.

7.17.7.2. Special leave with full pay may be granted for the total number of days as will be determined by Head of Department.

7.17.7.3. The Head of the Department must be satisfied that it is impossible for the employee concerned at that time to report for duty.

7.17.7.4. Documentary proof must be submitted with the special leave application.

7.18.8. Participation in Interviews as a candidate

7.18.8.1. Special leave with full pay may be granted in the case of an employee who has to attend an interview at any Public Service department away from employee's head quarters (proof of the invitation must be attached on the application form).

- 7.18.8.2. Special leave with full pay may be granted for the date of the interview.
- 7.18.8.3. Officials attending interviews within the department should complete one day special leave.

7.19.9. Absence from Duty which the Employer shall not require an Employee to utilize Leave

7.19.9.1. An employee is not regarded as being absent from duty and therefore shall not utilize leave in the following instances:

- 7.19.9.1.1. When he/she has to appear as a witness in a:
- 7.19.9.1.2. Criminal court case
- 7.19.9.1.3. Civil court case
- 7.19.9.1.4. Before a Commission of Enquiry appointed by the State
- 7.19.9.1.5. Labour Court
- 7.19.9.1.6. At CCMA and its Bargaining Councils

7.19.9.2. When he/she attends workshops in the employer's interest

7.19.9.3. When he/she has to appear as a Defendant or co-defendant in a Civil Court case arising from his/her official duties in which state has direct interest.

7.19.9.4. When he/she attends a course, lecture, workshop, and seminar presented by his/her own or other Department or the private sector, and in respect of which, he/she has been granted permission by Head of Department or delegated authority to attend such course during official working hours.

7.19.9.5. When he/she assists or represents an employee with permission of his/her employer during a disciplinary or misconduct inquiry or during an investigation into a complaint or grievance.

7.19.9.6. When he/she assists or represents an employee in a conciliation board in so far as such a representative or nominee is an employee in the same Department who has referred the matter for conciliation/arbitration.

7.19.10. Treatment of Substance Abuse (Rehabilitation)

7.19.10.1. An employee who has completed at least one (1) year satisfactory service and has been diagnosed with a substance abuse problem will be entitled to a maximum of ninety (90) calendar days as special leave in order to enter a recognised substance abuse treatment programme per annual leave cycle.

7.19.10.2. Supporting Medical documentation from a registered Medical Practitioner must be submitted together with the application for Special Leave.

7.19.10.3. The Special Leave is granted on condition that should any relapse occur within twelve (12) months from the date of treatment, the Special Leave shall be converted to vacation leave with or without pay, depending on the available vacation leave credit at the time.

7.19.10.4. If such an employee resigns or services are terminated before sufficient vacation leave has accrued, the portion of the over grant which exceeds the vacation leave credit on the last day of service, shall be regarded as an overpayment of salary which will be recovered.

7.19.11. Disabled Employees

7.19.11.1. Special leave may be granted to a disabled employee for the attendance of orientation courses or training courses designed to assist them in handling specific aspects of their disabilities.

8. PAY OUT OF LEAVE CREDITS

8.1 Pay out of leave credits at expiry of eighteen (18) months period

- a. Any unused annual vacation leave credits shall fall away at the end of the 18-month period (30th June of each year).
- b. Re-scheduled leave days should be utilised before the end of 18 months period.
- c. If, due to the Department of Community Safety and Transport Management's service delivery requirements an employee's leave is denied and not rescheduled, such leave must, upon request and,
- d. on recommendation of the relevant Senior manager, and approval of the Head of Department be paid out at the end of the 18-month period (30 June of each year. The pay out of leave is restricted to a maximum equivalent of the annual leave entitlements, calculated on the salary notch of the employee as on 31 December of each year. The employee's request for pay out of unused leave must be:
 - i. in writing;
 - ii. Accompanied by written proof of refusal of leave; and

- iii. Written proof that leave could not be rescheduled.
- iv. Accompanied by leave plan

8.2 Pay out of annual leave credits on termination of service

- a. Employees shall be paid a cash value in respect of unused annual leave credits upon termination of service. The payment will be limited to a maximum number of days equivalent to the annual leave entitlements, calculated on the salary notch of the employee as on the date of termination of service.

8.3 Pay out of leave credits accrued before 1 July 2000 (Capped leave)

- a. Capped leave is audited leave due to an employee, as at 30th June 2000, converted to working days.
- b. Employees who have earned leave accruals in terms of the dispensation applicable prior to 1st July 2000 and which were audited, shall retain the same. The employer shall pay such accrued capped leave on:
 - i. death
 - ii. Retirement
 - iii. Medical boarding (retirement due to medical reasons); or
- c. The Head of Department shall determine whether there are periods, which are not audited, and where no leave records exists, then the leave pay-out shall be paid on the basis of 6 days per completed year of service up to 100 leave days.
- d. If the leave audit on termination of service of an employee reveals that an employee has been over-granted annual leave with full payment, such portion of over-grant shall be recovered from an employee's, pension benefits.
- e. Capped leave may be granted on the same conditions as annual vacation leave, sick or special leave, but only if the latter has been totally exhausted.
- f. Utilization of capped leave days is subject to approval by the Head of Department.

8.4 Pay out of leave credits in the event of long service recognition

- a. In terms of the **Determination on the long service recognition in the Public Service** as amended, effective from the 31st July 2012, long service award is paid to employees with 20, 30 and 40 years continuous service, and that there is no more a need for employee to en-cash their leave days.

9. UNAUTHORISED ABSENCE

All unauthorised absence from duty is deemed to be vacation leave without pay, except in the cases acceptable to the Head of Department or Delegated authority, where the absence shall be deemed authorised vacation leave without pay.

9.1. UNPAID LEAVE

- a. If an employee has utilised all his/her annual leave with full pay, the Head of Department may grant him or her 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.
 - Unpaid leave is regarded as calendar days.

10. DAYS OF REST

A day of rest is defined as:

- g. A Sunday or a public holiday in the case of an employee who normally does not work on such a day.
 - ii. A day of rest shall not be regarded as leave and shall not be recorded as leave.

11. BONA FIDE OVER-GRANTING OF LEAVE

- a. An employee may not be granted annual leave with full pay in excess of the working days that the employee is entitled to, plus capped leave in respect of employees who were in service prior to 01st July 2000.

- b. 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 or leave entitlement at that time, such over grant will be corrected and/or deducted from the subsequent leave cycle. With termination of service, the latter will be regarded as an overpayment, and will be recovered from his/her pension benefit.

12. PROCEDURES FOR LEAVE APPLICATION

- a. Each employee must confirm his/her leave credits with the Component: HRM before applying for leave.
- b. Employees applying for leave must do so in writing on the Application for Leave of Absence form (Form Z1).
- c. Employees must clearly indicate all personal information (name, Persal number, Component, address and telephone/cell phone number during leave) as well as the type of leave applied for, the period of leave and the number of days. The application form must be signed by the employee and referred to his/her immediate supervisor for recommendation of the leave.
- d. Supervisors must verify all information contained in the leave application for correctness and that the condition with regard to the payment of the salary (full-pay/without pay) during the period of leave is completed. After the supervisor is satisfied that the form is correct, he/she must recommend and sign the leave form. The next level of authority must approve/sign the leave form.
- e. On completion thereof, the form, together with any attachments, if applicable, (e.g. medical certificate, timetable, etc.) must be submitted to the Component: HRM.
- f. **Employees are advised to complete separate leave application forms for separate periods of leave taken.**

13. REGULATORY CONDITIONS

- a. It is the responsibility of the employee requesting leave and his/her supervisor/head of section who recommends/approves leave, to familiarise himself/herself with the requirements stipulated in the Department of Community Safety and Transport Management's Policy on Leave of Absence and to submit his/her leave with the required documents attached to his/her supervisor.

b. It is the responsibility of each Senior Manager to plan his/her Chief Component/ Component's leave at the start of the annual leave cycle and to submit leave schedules of his/her Component within the first month of the annual leave cycle (January of each year) to the Directorate: HRM.

c. Managers/ supervisors must ensure that:-

- i. the classification of leave is substantiated with the required documentary proof, recommended and approved before taking leave applications to the Directorate: HRM for implementation.
 - ii. an employee's application for all categories of leave is submitted to the Directorate: HRM prior to the commencement of the leave.
- d. Updated leave reports will be submitted on request to components to update/verify their internal leave records.
- e. Leave credits are reflected on a monthly basis on the salary advices.
- f. The Head of Department (or his/her delegate) may at any time withdraw leave that has been granted, taking the operational requirements of the Department of Community Safety and Transport Management into consideration.

13.1 Vacation Leave

- i. An employee shall not leave or stay away from work until he/she has applied, in writing, for leave and has been advised that the leave application has been approved. Employees may not, therefore, proceed on vacation leave and then telephonically or otherwise inform his/her supervisor of such leave being taken. Hence, vacation leave becomes valid once it has been approved by the relevant supervisor.
- ii. In the event of telephonic requests (before 10h00 of the relevant day) for vacation leave for short periods (1 or 2 days) due to unforeseen circumstances (e.g. broken down motor vehicle, domestic problems, etc.) the application for leave form must, clearly state that prior telephonic approval was granted for such leave and should be submitted to the Component: HRM within three (3) working days after reporting for duty.

13.2. Sick Leave

- i. It remains the responsibility of the employee to inform the supervisor of his/her absence from office due to sickness before 10h00 of the same day of the illness. If this information is not received in time, the supervisor may, *on good grounds*, refuse to grant sick leave with pay in respect of any absence from duty to which the certificate relates. However, where an employee is not in a position to report due to a serious medical condition and the supervisor is satisfied that reason(s) are bona_fide; the supervisor may waive the submission of notification for illness. In such cases, absence from duty may be covered by sick leave with full pay.
- iii. It is the responsibility of each employee to inform his/her supervisor of the time booked off by a medical practitioner.
- iii. An application form for sick leave must be submitted to the Directorate: HRM within three (3) *working days* after reporting for duty.
- iv. An employee may utilise sick leave during his/her notice of service termination period, provided that a medical certificate is submitted.

g. Absence during the last 30 days of service shall apply to:

- i. Sick leave;
- ii. Special leave; and
- iii. Vacation leave granted (substantiated with proof) where leave sick has been exhausted

h. Absence from duty of an employee who is:-

- a. arrested or has to appear before a court of law on a criminal charge and who is not subsequently acquitted; or
- b. sentenced to imprisonment; or
- c. absent from duty owing to illness, indisposition or injury due to his/her misconduct or failure to take reasonable precautions, must be covered by the granting of vacation leave without pay, even if he/she applies beforehand in writing for leave to cover such absence.

14. MONITORING, EVALUATION AND REVIEW

The Department's Human Resources Administration Sub-Directorate is responsible for communicating the provisions of this document within the department. All managers and supervisors are responsible for the implementation thereof.

The policy shall be reviewed and amended as and when a need arises to ensure that it is aligned to the prevailing legislations.

15. RELATED POLICIES

Effective implementation of this policy requires that it be read together with other Departmental Policies.

16. COMMENCEMENT OF THE POLICY

This policy shall be implemented by the Department with effect from the date of approval and signature by the Head of Department.

APPROVED



**BOTLHA MOFOKENG
HEAD OF DEPARTMENT**

SIGNED THIS DAY.....1st.....**OF**.....October.....**2018.**