DIRECTORATE: HUMAN RESOURCE MANAGEMENT

POLICY TITLE : LEAVE ADMINISTRATION POLICY

POLICY Ref. No. : S1/P/LAP

1. PREAMBLE

i. While recognizing the employee's rights as enshrined in section 26(1) of the Constitution of the Republic of South Africa Act No.108 of 1996, the Labour Relations Act No.66 of 1995 as amended, the Basic Conditions of Employment Act No. 75 of 1997, and PSCBC Resolution 6 of 1999 relating to the administration of leave, and further committed to promoting a working environment that is suitable to the effective realization of the strategic objectives of the Department, the Department of Public Works and Roads hereby introduces a leave administration policy to provide guidelines pertaining to all matters related to leave.

2. DEFINITIONS

i. All terminology used in this document has the same meaning as terminology used in Labour Legislation, as amended, unless indicated to the contrary.

**Official duty**
- are those activities performed by an employee as part of, or an extension of, regular responsibilities in furtherance of the department's interest.

**Department**
- Department of Public Works Roads.

**Effective date:** The date when this policy is approved by the head of the Department.

**Temporary incapacity leave**
- A short period of incapacity leave, if the employee is absent for not longer than 29
working days per occasion, after the normal sick leave credit have been exhausted, in a sick leave cycle; and

**Long period of incapacity leave**: when an employee is absent for 30 working days or more per occasion, after the normal sick leave credit have been exhausted, in a sick leave cycle.

**Immediate family**: means a member’s spouse, permanent companion or dependant.

**Permanent companion**: means a person who is publicly acknowledged by a member as that member’s permanent companion.

3. **PURPOSE**

   i. To provide a framework and fair procedure for the granting and administration of all types of leave.

4. **SCOPE OF APPLICATION**

   i. This policy applies and binds all employees/officers employed in the Department at all levels as well as certain provisions that relates to interns and learnership learners.

5. **LEGISLATIVE FRAME WORK**

   i. Labour Relations Act No.66 of 1995 as amended
   ii. Public Service Regulations, 2001;
   iii. Basic Conditions of Employment Act No. 75 of 1997;
   iv. PSCBC Resolution 3 of 1999;
   v. PSCBC Resolution 1 of 2012;
   vi. Directive on Leave of Absence in the Public Service; Procedure on Incapacity Leave and Ill-health Retirement (PILIR);

6. **CONDITIONS APPLICABLE FOR THE GRANTING OF LEAVE**

   i. An employee/official qualifies for leave if:

   b. He/She is on probation or is a permanent employee of the Department;

   c. He/she has a permanent contract of employment or a fixed term contract lasting for the duration of at least twelve calendar months;
d. Subject to the relevant collective agreements and regulations related to the Public Service which may be published from time to time;

ii. Temporary employees leave entitlement shall be calculated on a pro rata basis.

7. LEAVE CATEGORIES

7.1. VACATION LEAVE

i. The Department shall grant vacation leave as follows:
   Employees with more than 10 years’ service: 30 working days (leave credits) per leave cycle;

ii. Employees with less than 10 years’ service: 22 working days (leave credits) per leave cycle;

iii. The above leave is in respect of the full annual leave entitlement calculated from the 1 January to 31 December each year, or a pro rata of each calendar month which a temporary employee or employees who commenced their duties after the 1 January have worked.

iv. A day of rest that falls within the vacation leave period shall not be included in the number of days an employee has taken for vacation leave;

v. An employee may not be granted annual leave with full pay in excess of that which he/she is entitled annually plus capped leave. Capped leave is in respect of persons who were in the public service prior to 1 July 2000. Where this may be found to have happened, it must be due to a bona fide error, such leave over-grant must be deducted from the leave credits of the subsequent leave cycle;

vi. No employee is allowed to go on leave before her/his vacation leave application is approved. Any vacation leave not approved by an authorised official beforehand shall be regarded as unauthorised leave for which appropriate disciplinary measures that include leave without pay will be taken;

vii. An employee may be refused vacation leave depending on operational requirements provided granting of vacation leave may not be unreasonably withheld;
viii. The period of eligibility for vacation leave shall be each and every succeeding eighteen (18) month period of employment;

ix. Should an employee not use his or her leave credit for the eighteen (18) months period, such leave credits shall be forfeited;

x. If an employee requires time-off during official hours, such employee’s supervisor/ manager shall record such time-off in the register. For every eight (8) hours time-off recorded, a leave form must be completed by the employee and be recorded in the leave register accordingly. At the end of a leave cycle, any period less than eight hours will be regarded as a full day’s leave;

xi. Supervisors/managers shall keep time-off registers for purposes of recording time-offs requested by employees.

xii. The deadline for submission of leave application form to HRM is five (5) working days.

xiii. Vacation Leave during closure of offices/operations

- The Department, given its nature, is bound to close offices and operations during the period around the festive holidays that are at the end/beginning of each year. This is however with the exception of essential services.

- Employees are therefore advised to always reserve up to at least 10 days vacation leave credits for this period.

7.2. NORMAL SICK LEAVE

i. All employees, regardless of their dates of appointment in the Department, are entitled to 36 days leave with full pay within a three-year leave cycle, excluding contract workers who qualify for one day per month;

ii. A certificate from a registered health professional shall accompany all applications for sick leave of three (3) or more days;

iii. Should no medical certificate be submitted, such absence shall be covered by either vacation leave or leave without pay. The Department may still pursue disciplinary measures for unauthorized leave;
iv. All applications for sick leave in excess of 36 days per three year cycle shall be referred to the Directorate: Human Resource Management for consideration in terms of PILIR;

v. The Department may grant vacation or unpaid leave to an employee who has exhausted all of his or her paid sick leave credits;

vi. It is the employee's responsibility to notify her or his supervisor/manager about her or his absence from duty due to illness at least before 12h00 on the day of illness. However, in cases of serious medical conditions a verbal message to the supervisor/manager by relative, fellow employee or friend is accepted.

vii. Sick leave may also be granted to an employee who has to go for maintenance work for equipment used as a result of his/her disability;

viii. An employee is entitled to two days sick leave without submission of medical certificate in terms of eight week rule.

ix. An employee in his/her first 36 days normal sick leave period, who has been absent from work on more than two occasions during an 8-week period, must regardless of the duration of the sickness or injury, submit a medical certificate stating that the employee was unable to work for the employee’s absence on account of sickness or injury, failing which such leave will be covered by normal vacation leave or alternatively unpaid leave and,

x. The 8-week shall be the calendar period and commence on the first day of an employee’s absence due to sickness or injury. Any subsequent day of absence due to sickness or injury after the above-mentioned period must then be regarded as the first day of the next 8-week period.

xi. The deadline for submission of sick note to the supervisor is two (2) working days.
7.3 SPECIAL SICK LEAVE/OCCUPATIONAL INJURIES

i. The Department may grant an employee special sick leave in respect of injuries sustained and/or an illness which occurred whilst on official duties.

ii. For operationalisation, this leave will be processed in the same manner as incapacity leave.

7.3.1 INCAPACITY LEAVE

i. It applies when an employee has exhausted his or her sick leave days i.e. 36days in 3 years.

ii. A medical certificate to be attached to all incapacity leave applications. Without the medical certificate, the incapacity leave would be captured as an annual leave or leave without pay in case annual leave days are exhausted.

7.3.2 TEMPORARY INCAPACITY LEAVE

i. An employee must submit an application form for temporary incapacity leave personally or through a relative, fellow employee or friend within 5 working days after the first day of absence;

ii. The Head of Department or her/his delegate may approve additional sick leave with full pay for a maximum of thirty (30) working days for an employee who is required to be absent due to incapacity which is not of a permanent nature and submits a medical certificate to that effect;

iii. The Department is entitled to obtain a second opinion before granting leave referred to in paragraph 7.3.2. (i) and (ii) above;

iv. During the additional sick leave period granted, the Department may conduct an investigation into the nature and extent of the disability in terms of item 10(1) of Schedule 8 of the Labour Relations Act, 1995 and the Incapacity Code.

... 7.3.3. PERMANENT INCAPACITY LEAVE

i. An employee shall not directly access or apply for permanent incapacity leave. The Department may grant an employee up to maximum of 30 working days’ permanent incapacity leave once he or she has, following the assessment and investigation determined that the employee’s condition is of a permanent nature. The Department must during this period and in accordance with the advice of the Health Risk Manager, ascertain the feasibility of:-

a. alternative employment; or
b. adapting duties or work circumstances to accommodate the employee.

ii. Should the Department and/or the employee be convinced that the employee will never be able to render an effective service at his or her rank or level, the employee may proceed with an application for termination of service due to ill health or the Department may initiate the procedures in terms of Procedures on Incapacity Leave and Ill-Health Retirement (PILIR).

7.3.4. PRE – NATAL LEAVE

i. An employee shall 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 or part of a day for pre-natal leave;

iii. The Head of the Department and/or his/her delegate shall record all part days utilised by the employee for pre-natal leave;

iv. An application for pre-natal leave should be supported by reasonable proof that the employee attended a doctor’s appointment and/or went for tests related to the pregnancy;

v. 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;

vi. An employee’s absence from work due to medical complications during pregnancy will be covered by sick leave.

7.3.5. MATERNITY LEAVE

i. An Employee shall be are entitled to four (4) consecutive months maternity leave;

ii. Employees are obliged to take maternity leave four (4) weeks before the expected date of birth unless the Department is presented with certificate from a registered health professional stating that the employee is fit enough to continue with her duties until a date prior to the date of confinement;

iii. An employee is not allowed to commence with normal duties for at least six weeks after the birth of a child, unless the registered health professional certifies that the employee is fit to do so;
iv. In the event of death of an employee's child few days after birth, miscarriage, stillbirth or termination of pregnancy due to medical reasons within the third trimester of the pregnancy, an employee shall be granted six (6) weeks maternity leave;

v. The provisions of paragraph 7.3.3.(iv) above shall apply with the necessary changes to an employee who experiences stillbirth, miscarriage, and termination of pregnancy due to medical reasons after the commencement of maternity leave. The period before such an unfortunate experience shall be regarded as special sick leave with full pay;

vi. Should a miscarriage, stillbirth or termination of pregnancy due to medical reasons occur during the first two trimesters of pregnancy, any leave utilized will be regarded as normal sick leave.

7.3.6. PATERNITY LEAVE

i. A leave of three (3) working days per annual leave cycle 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.

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

a. Use his part of the five working days family responsibility leave

b. Use available annual leave

iii. The application for paternity leave shall be supported by reasonable proof, i.e. provisional birth certificate, doctor's note, affidavit.

7.3.7. FAMILY RESPONSIBILITY LEAVE

i. An Employee shall be entitled to five (5) working days family responsibility leave per an 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;

ii. An employee with a child of severe special needs shall be entitled to five (5) working days per annual leave cycle. Children with severe special needs are children with mental, emotional or physical disability, certified by a medical practitioner, which require health and related services of a
type or amount beyond that required by children generally. For this purpose a child means an employee’s son or daughter of any age.

.........ii. An employee shall be entitled to five (5) working days per annual leave cycle for utilization if the employee’s child, spouse or life partner dies; or an employee’s immediate family member dies;

.........iii. The number of days granted in accordance with paragraphs 7.3.6 (i) and (ii) above shall not exceed ten (10) working days in an annual leave cycle;

iv. The Head of the Department or her/his delegate may approve usage of vacation leave in the event where an employee has exhausted his/her family responsibility leave days;

.........v. In the event where an employee has exhausted all his/her family responsibility days and vacation leave days, leave taken thereafter shall be regarded as leave without pay.

7.3.8. ADOPTION LEAVE

i. An employee may be granted a maximum of forty-five (45) working days leave where he/she adopts a child younger than two years of age;

ii. Should both spouses be employed in the Department, adoption leave will be granted to both of them provided that such combined leave does not exceed 45 working days referred to in paragraph 7.3.7.(i) above;

iii. An eligible employee should provide the Department with a certified copy of Court Order which would suffice as sufficient proof for a committing parent to access surrogacy leave.

7.3.9. UNPAID LEAVE

i. The Department may grant an unpaid vacation leave of not more than 184 working days to an employee who has exhausted all his/her paid leave;

ii. An employee shall utilize unpaid leave for an absence from work due to an arrest, imprisonment or a criminal sentence.
7.3.10. SPECIAL LEAVE

i. The Department shall grant qualifying employees special leave with full pay under the following circumstances:

7.3.11. SPECIAL LEAVE FOR PREPARATION AND FOR WRITING EXAMINATIONS

i. The Department may grant an employee two (2) working days leave with full pay on which one day she/he sits for preparation and one day for examination which in the opinion of the Department:

.................. a. has the object to better equip the person concerned for a career in the Public Service, irrespective of whether it relates to his/her immediate field of work or not, or

.................. b. is in the field of study which is in the interest of the Public Service.

.................. c. Special leave referred to above may only be granted for Bona fide final examinations and not for class tests, assignments etc. and may only be granted once in respect of a re-examination or an examination pertaining to a study course which an employee failed and she/he has to repeat;

.................. d. Should the special leave granted precede or succeed a holiday or more consecutive days of rest, such a day or days of rest, although recorded as special leave, must be disregarded when calculating a number of special leave days which may be granted to an employee. Weekends and holidays interrupting study leave are disregarded;

.................. e. Employees are entitled to one (1) day study leave with full pay for every subject/course/module/paper registered as per examination time-table over and above leave referred to in 7.3.10.(i) above;

.................. f. Employees who attend classes do presentations and tests as a package may be granted three (3) days study leave connection with such attendance, presentation and writing but to a maximum of two sessions per annum.
7.3.12. SPECIAL STUDY LEAVE FOR ATTENDANCE OF CLASSES DURING OFFICIAL HOURS

i. Employees who study part-time or by means of correspondence at recognised educational institutions and who, as a result of studies, are required to be absent from duty during official hours, may be released from duty on condition that one day vacation leave with full pay is taken, if no leave credits are available, one day vacation leave without pay for every full eight (8) hours that the official is released from duty;

ii. Notwithstanding the provisions of paragraph 7.3.11.(i) above, an employee who is attending a course or class as part of the Department's developmental training under the workplace skills plan shall not be regarded as having taken leave for purposes of this provisions;

iii. An employee who repeats a course or part thereof, may, with the approval of the HoD or her/his delegate, be released from duty on condition that one day's vacation with full pay, or if she/he does not have leave credit, one day's vacation leave without pay, be granted in respect of every eight hours she/he is so released from duty;

iv. The granting of leave privileges in respect of studies is subject to the HOD or her/his delegate being satisfied that the studies are in the interest of the Department and the Public Service in general.

7.3.13 FULL TIME STUDY LEAVE

a) Full time study leave may be considered for employees who study towards courses that intends to address scarce skills as defined in the departmental Human Resource Plan.

b) Employees may be granted one (1) day Special Leave with full pay for each day to be taken as annual leave with full pay to a maximum of 180 calendar days per annum.

c) If no leave credits are available, excess number of days must be granted as Special Leave with full pay.

d) The number of study leave days must be as confirmed by the Institution. Proof must be submitted.

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e) Approval of the delegated authority must be obtained during the year preceding the intended year of study.

f) The employee must serve the department for the equivalent period on completion of study.

g) The study must be at own expense.

7.3.14 SPECIAL LEAVE DURING PARTICIPATION IN SPORT

i. An employee who participate in any registered sport, in any capacity except as a supporter, and represent the Department, Province or country, may be granted special leave for the period as stated in a written confirmation from the relevant body or institution. Proof of registration for such sport is required;

ii. Interns, learners who are on learnership programme, a learner who is on a learning programme and is not employed and a beneficiary is required to fill in an indemnity form when participating in sports.

7.3.15 SPECIAL LEAVE FOR ATTENDING INTERVIEWS

i. A one day special leave with full pay will be granted to an employee, excluding probationers, who will be attending interviews away from his/her place of employment upon receipt of proof of invitation.

7.3.16 SPECIAL LEAVE FOR TREATMENT OF SUBSTANCE ABUSE

i. An employee who has completed one year of service and is found to be abusing alcohol or any other substance, will be granted special leave on a once off basis. Subsequent to the problem persisting, he/she may utilize accumulated or probable future annual vacation leave for purposes of relevant treatment, on recommendation of an EAP Officer, and/or as an outcome of a sanction resulting from a disciplinary hearing provided that proof of attendance is submitted to the Directorate: Human Resources Management.
7.3.17 SPECIAL LEAVE DURING RESETTLEMENT ON TRANSFER

i. An employee who has been transferred may be granted a maximum of two days special leave to oversee the packing and unpacking of his/her personal belongings. If more days are required, an employee will utilise his/her annual vacation leave.

7.3.18 SPECIAL LEAVE FOR RECOGNISED UNION ACTIVITIES

i. An office bearer or shop stewards of a recognised labour union may be granted fifteen (15) working days with full pay per annum for activities related to his/her union position provided that supporting documentation to the satisfaction of the HOD or his/her delegate is submitted.

ii. The provisions of this policy do not apply to workers appointed on an hourly/daily/monthly basis.

7.3.19 SPECIAL LEAVE FOR ABSENCE REGARDED AS BEING ON OFFICIAL DUTY

When an employee –

i. is a witness for the state
   a. in a court case;
   b. in a misconduct case in terms of the law;
   c. before a commission or committee of inquiry appointed by the state;
   d. at an inquest;
   e. at an inquiry (established by a recognised government body)

ii. is a defendant or co-defendant in a civil court case arising from her/his official duties and in which the State has a direct interest.

iii. is appointed by the Department of Home Affairs to assist with elections;

iv. assists or represents an officer or employee during a disciplinary or misconduct inquiry or during an investigation into a complaint or grievance; and /or

v. as the person charged with misconduct during a disciplinary or misconduct enquiry;

vi. attends short courses, congresses, symposia, seminars, conferences, lectures, etc; and study tours abroad, (The purpose of attending the above mentioned courses should be viewed as a means of keeping employees informed of the latest developments in their respective work areas, i.e. the attendance of such courses may serve as an important training measure).
Departments should, on receipt of particulars relating to courses, carefully consider the subject matter to be discussed, to establish whether any good purpose would be served by participating in the proceedings. If so, the next step would be to nominate the most suitable employee(s) to represent the department.

APPROVED/NOT APPROVED

MR P.J. MOHUPU
HEAD OF DEPARTMENT

DATE
21/3/2019