

RESOLUTION NO ____3____ OF 2011

RATIFICATION OF COLLECTIVE AGREEMENT:

**AGREEMENT ON THE ESTABLISHMENT OF SPECIAL LEAVE FOR THE
DEPARTMENT OF ENVIRONMENTAL AFFAIRS (DEA)**

Noting, the provisions of sub rule 14.5 and sub rule 14.6 of the Governance Rules, requiring Council to consider the ratification of an agreement in terms of sub rule 14.4

Also noting, the provisions of sub rule 14.7 of the Governance Rules on the status of such ratified agreement

Council in the meeting of the 21st October 2011 considered the agreement presented for ratification and agreed by decision of the Council to ratify such agreement.

This agreement therefore becomes an agreement of the Council for purposes of review and dispute resolution as per the provisions of the Governance Rules as from the date of ratification.

The Constitution of Council as per clause 16.13 determines the numbering of this Resolution.

Parties are required to ensure the implementation of the agreement as per clause 4(f) of the main agreement and sub rule 5 of the Governance Rules.

Date: 21 October 2011

Place: Centurion



Sharlaine Oodit
Secretary to Council

All correspondence must be addressed to the General Secretary

Public Services Bargaining Centre
200 Basden Avenue, Lyttelton, 0176
PO Box 16605, Lyttelton, 0140

**COLLECTIVE AGREEMENT NO 1 OF 2011: CONCLUDED IN THE DEPARTMENTAL BARGAINING
CHAMBER FOR THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS**

[SPECIAL LEAVE COLLECTIVE AGREEMENT]

Resolution Number	1 OF 2011
Date:	25 MARCH 2011

1. BACKGROUND

Leave is a basic condition of employment and is regulated by the Basic Conditions of the Employment Act, Act No 75 of 1997 as amended, Public Service Co-ordinating Bargaining Council Resolutions (applicable to special leave) as well as the Determination on Leave of Absence in the Public Service (issued by the Department of Public Service and Administration) regulate leave in the public service. The resolutions and determinations require the Department of Environmental Affairs to adopt a 'special leave policy'. Employees should understand their rights relating to special leave and therefore, the Department of Environmental Affairs is formulating a special leave collective agreement that outlines the application of special leave for its employees.

2. PURPOSE

The purpose of this policy is to regulate employees' absence from duty by means of granting leave of absence within the framework of provisions and measures as set out in this policy document.

3. MANDATE AND LEGISLATIVE FRAMEWORK

This collective agreement is mandated by the following legislation:

- (a) PSCBC Resolutions applicable to special leave;
- (b) Public Service Regulations, 2001, as amended;
- (c) Determination on Leave of Absence in the Public Service, as provided by the Department of Public Service Administration;
- (d) Basic Conditions of Employment Act, 1997, as amended; and
- (e) Labour Relations Act, 1995, as amended; and
- (f) Any other legislative provisions applicable (to special leave) in the public service.

4. SCOPE OF APPLICATION

The Department acknowledged that circumstances may exist which require special or extraordinary leave for employees. The collective agreement is applicable to all employees of the Department who are appointed permanently, on probation or on contract for a period of a year or longer.

5. COLLECTIVE AGREEMENT STATEMENT

The Department of Environmental Affairs is committed to a fair, equitable and manager application of the new leave dispensation as determined by the Public Service Coordinating Bargaining Council resolutions and determinations of leave of absence in the Public Service.



6 **DEFINITION OF TERMS**

- 6.1 "Aegrotat examination" means an examination granted to a student who could not write the initial examination as a result of illness or injury;
- 6.2 "DDG" means a Deputy Director-General of the DEA;
- 6.3 "DEA" means the Department of Environmental Affairs;
- 6.4 "DG" means the Director-General of the DEA;
- 6.5 "Sabbatical leave" means a period of leave from work granted to an employee to conduct research in a field of study that falls within the strategic objectives of the Department. That research might not necessarily lead to the obtainment of a higher qualification by an employee, but to gain more in-depth knowledge in the identified field of study and thereby advance his or her professional knowledge;
- 6.6 "Senior Manager" means a senior manager employed on salary level 13 and above;
- 6.7 "Special leave cycle" means a period covering 1 January to 31 December of each year.

7. **APPROVAL OF SPECIAL LEAVE**

- (a) Relevant line managers or supervisors are responsible for approving all categories of special leave except for sabbatical leave, which must be approved by the DG in consultation with the relevant DDG.
- (b) Managers or supervisors must ensure that the employee has sufficient leave credit in that category and has not exceeded the allowed limit before they approve any special leave application.

8. **SPECIAL LEAVE FOR PREPARATION AND WRITING OF EXAMINATION**

Special leave for preparation and writing of examination may not exceed a maximum of 16 (sixteen) working days per special leave cycle. Applications for such leave must be made on the prescribed leave form, accompanied by a timetable and the previous year's results, if any, from the relevant recognized educational institution.

8.1 **Preparation for examinations**

- (a) An employee may be granted 1 (one) working day special leave with full pay in order to prepare for the examination. Such special leave will be granted in respect of each paper to be written. Special leave to prepare for examination may not exceed the maximum of 8 (eight) working days in each special leave cycle.
- (b) Special leave to prepare for examination shall not be granted to employees taking a re-examination for a supplementary and/or failed subject or course.

8.2 **Writing of examinations**

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- (a) Employees may be granted special leave with full pay for the days on which they sit for examinations. Special leave for writing examinations may not exceed the maximum of 8 (eight) working days in each special leave cycle.
- (b) Special leave for writing examinations may be granted to employees who are writing a subject or a course for the second time but will not be granted to those who are writing for the third time.
- (c) The examination referred to here may include ordinary school subjects, further education and training (FET) courses, tertiary education courses or courses offered by private institutions.
- (d) The employer may consider applications, on merits, from employees writing aegrotat examinations.

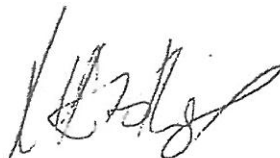
9. SPECIAL LEAVE FOR PURPOSES OF CONDUCTING RESEARCH AND THESIS WRITING

- (a) Employees may be granted special leave with full pay, not exceeding the maximum of 7 (seven) working days in each special leave cycle, for purposes of conducting research or preparation for a dissertation or thesis.
- (b) An application for this type of leave must be done in writing and must be accompanied by proof of enrolment and a programme of studies from the relevant educational institution. Employees must create awareness in their respective components of their intentions to engage in studies before the start of the next academic year, which may require of them to be absent from work for any particular period in a year.
- (c) This special leave provision shall not be granted for a second time to employees for conducting research or writing a thesis if such employee failed the subject or course for which the special leave was taken.

10. SPECIAL LEAVE FOR PART TIME STUDIES AND PRACTICAL WORK

10.1 Employees may be granted special leave with full pay, not exceeding the maximum of 7 (seven) working days in each special leave cycle, for purposes of:

- (a) Studies that require the performance of practical work or practice teaching for a particular period annually;
- (b) Attendance of compulsory block weeks or preparatory courses with a view to sit for a qualifying examination in order to obtain admission to a particular field of study;
- (c) Submission of a portfolio of evidence after attending a course initiated by the Department;
- (d) Practical work required as a prerequisite for registration in a particular profession; or
- (e) Attending training in the case of people with disabilities.



10.2 An application for this type of leave must be done in writing, approved by the relevant line manager and accompanied by proof of enrolment and a programme of studies from the relevant educational institution. Employees must create awareness in their respective components of their intentions to engage in studies before the start of the next academic year, which may require of them to be absent from work for any particular period in a year.

10.3 Special leave provision shall not be granted for a second time to employees for part time studies and practical work if such employee failed the subject or course for which the special leave was taken.

11. SABBATICAL LEAVE

11.1 DEA recognizes the necessity for its staff to acquire new and enriching experiences and to secure uninterrupted time for research, and therefore encourages and supports the granting of sabbatical leave to its staff members.

11.2 **Sabbatical leave with full pay** that may be granted to an employee shall not exceed 6 (six) months.

11.3 The Director-General may, as an exception, grant **sabbatical leave exceeding 6 (six) months** under the remunerative conditions as he or she may determine.

11.4 The following criteria will be used in considering applications for sabbatical leave:

- (a) An application for sabbatical leave must be done in writing;
- (b) The applicant must have served DEA for a minimum period of 3 (three) years;
- (c) An employee's application must clearly indicate how the granting of such leave will benefit both him/her and the Department;
- (d) The research field in which an employee wishes to be granted sabbatical leave for, must fall within the strategic objectives of the Department;
- (e) The applicant must also explain the operational arrangements agreed between him/her, his/her supervisor, and the Branch Head (Deputy Director-General) regarding the period of absence as a result of the sabbatical leave;
- (f) If sabbatical leave is granted, the Department shall not assist the applicant with study fees or payment of travel and subsistence costs;
- (g) Only one sabbatical leave may be approved for an employee in a period of 4 (four) years.

11.5 The authority to approve applications for sabbatical leave is vested in the Director-General.

11.6 In considering applications for sabbatical leave, the Director-General shall take into consideration the recommendation of the Branch Head (Deputy Director-General).

- 11.7 The Deputy Director-General must ensure that service delivery is not hampered by the granting of sabbatical leave.
- 11.8 Within two months of the employee's return from a sabbatical, a report must be submitted to the Director-General outlining the benefits of the sabbatical in terms of professional growth of the employee and how that knowledge is going to benefit the Department.
- 11.9 Failure to submit a report within the prescribed period will result in the sabbatical leave to be converted to unpaid leave.
- 11.10 If an employee resigns before serving the equivalent of the period granted to him/her as paid sabbatical leave, he/she will be held financially liable for the said period or the remainder thereof.

12. SPECIAL LEAVE FOR PURPOSES OF ATTENDING NATIONAL AND INTERNATIONAL SPORTING EVENTS

- 12.1 An employee may be granted special leave with full pay not exceeding 5 (five) working days in each special leave cycle when selected by a recognized amateur sports association to:
- (a) Take part on a voluntary basis as a member, coach, referee or manager of an organized sports group,
 - (b) Take part as a competitor, at national and international sporting events,
 - (c) Accompany, in an official capacity, a foreign national team visiting the country.
- 12.2 Any other application for special leave to attend/participate in a national/international sporting event will be considered on its own merits.
- 12.3 Employees are required to provide documentary proof of appointment or selection to participate in sporting events when applying for this type of leave.

13. SPECIAL LEAVE FOR PURPOSES OF RESETTLEMENT

One day special leave with full pay may be granted to employees who are transferred at State expense to supervise the packing of personal effects at the previous headquarters and one day special leave with full pay to supervise the unpacking of personal effects at the new headquarters.

14. ABSENCES FROM NORMAL WORKING PLACE WHICH ARE NOT RECORDED AS LEAVE

- 14.1 All absences from the normal working place as a result of the instances mentioned below must be supported by documentary proof.
- 14.2 An employee is not regarded as being absent from duty in the following instances:
- 14.2.1 When he/she is subpoenaed to appear as a:
- (a) Witness-



- i. In a court case;
- ii. Before a commission or committee of enquiry appointed by the State; or
- iii. At an inquest; or
- (b) Defendant or co-defendant in a civil court case arising from his or her official duties and in which the State has a direct interest;
- 14.2.2 When he/she attends a course, lecture, workshop/conference, etc. presented by his/her own or some other Department or the private sector and in respect of which he/she has been granted permission by his/her senior manager to attend such course during official hours;
- 14.2.3 When he/she is appointed by the Independent Electoral Commission to assist with parliamentary elections;
- 14.2.4 When he/she assists or represents an employee during a disciplinary or misconduct inquiry or during an investigation into a complaint or grievance;
- 14.2.5 When he/she assists or represents an employee in conciliation proceedings as indicated in section 135 (4) of the Labour Relations Act, 1995;
- 14.2.6 When he/she is:
 - (a) The aggrieved person during an investigation into his/her complaint or grievance;
 - (b) The person charged with misconduct during a disciplinary or misconduct enquiry;
 - (c) The person utilizing the services of the Commission for Conciliation, Mediation and Arbitration (CCMA) as a complainant, employer representative or a witness; or
 - (d) A witness in a disciplinary hearing;
- 14.2.7 He or she is arrested or has to appear before a court of law on a criminal charge and he/she is subsequently acquitted or the charge withdrawn; or
- 14.2.8 The area in which he/she is working is struck by a natural or manmade disaster and the head of Department is satisfied that it is impossible for the person concerned at that time to continue with his/her official duties.
- 14.3 Due to the fact that the Human Resource office does not keep records of this category of special leave, line managers or supervisors must keep their own records to control these types of absences.

15. SEGREGATION OR ISOLATION ON MEDICAL INSTRUCTIONS

Special leave may be granted to an employee who has been quarantined as a result of contracting or suspected of having contracted an infectious or contagious disease. The

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granting of special leave shall be subject to the submission of a certificate by a registered medical practitioner indicating the period of and reason for segregation or isolation.

16. LEAVE FOR PURPOSES OF TREATMENT FOR ALCOHOL AND SUBSTANCE ABUSE

- 16.1 Special leave for the purpose of rehabilitation or treatment for alcohol and substance abuse may be granted to an employee (excluding an employee on probation) who;
- (a) has completed more than 12 (twelve) months satisfactory service in the Department and his/her appointment has been confirmed as permanent;
 - (b) has been found to be abusing alcohol and/or other substances to an extent that such a habit has a negative impact on his/her work performance; and
 - (c) is willing to be rehabilitated.
- 16.2 An employee may be granted up to 22 (twenty two) working days paid leave for purposes of rehabilitation in a generally recognized institution offering rehabilitation services. The granting of such leave will be subject to a recommendation and referral for rehabilitation by the Department's Employee Wellness & Occupational Health component. Should an employee require more special leave days than the 22 (twenty two) working days initially granted, a valid medical certificate and a recommendation from a registered medical practitioner of the rehabilitation centre must accompany the request. The relevant Senior Manager and the Employee Wellness Officer will consider the granting of an additional special leave not exceeding 22 (twenty two) working days
- 16.3 A full medical report outlining the progress made in rehabilitating the employee must be submitted to the Department at the end of the rehabilitation period. Should an employee fail to complete the rehabilitation programme, the special leave granted to him/her will be converted to annual leave and if he/she does not have sufficient annual leave credit, unpaid leave will be granted.
- 16.4 In addition to the medical report mentioned in 16.3 above, the employee's supervisor must submit a progress report to the Senior Manager on a quarterly basis regarding the employee's progress after returning from rehabilitation.
- 16.5 The maximum special leave that may be granted to an employee for rehabilitation purposes during his/her employment in this Department shall not exceed 44 (forty four) working days.

17. ENQUIRIES

The Directorate: Human Resources Management may be contacted for enquiries or further guidance with regard to the special leave matters.

18. MONITORING AND EVALUATION

This collective agreement shall be reviewed biannually or whenever it is necessary and aligned with applicable legislation.

19 **DISPUTE RESOLUTION**

If there is a dispute about the interpretation or application of this agreement any party may refer the matter to the Council for resolution in terms of the dispute resolution procedure of the Council.

This is done and signed at PRETORIA on this 25 day of MARCH 2011 by the following representatives duly mandated by their respective organisations:

On behalf of the Employer

ORGANISATION	REPRESENTATIVE	SIGNATURE
Department of Environmental Affairs	NP QAGANE	<i>[Signature]</i>

On behalf of Labour Organisations

ORGANISATION	REPRESENTATIVE	SIGNATURE
NEHAWU	<i>[Signature]</i>	<i>[Signature]</i>
PSA		