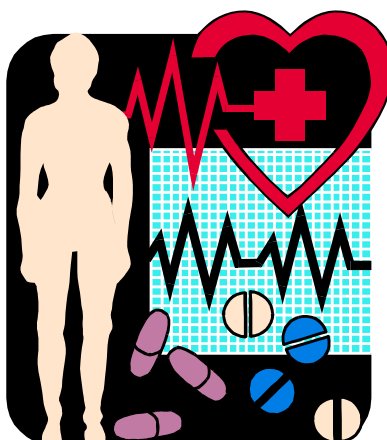




**POLICY AND PROCEDURE
ON
INCAPACITY LEAVE
AND
ILL-HEALTH RETIREMENT
(PILIR)**



NOVEMBER 2005

**DETERMINED IN TERMS OF SECTION 3 (3) (c) OF THE PUBLIC
SERVICE ACT 1994 BY THE MINISTER FOR PUBLIC SERVICE AND
ADMINISTRATION**



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POLICY AND PROCEDURE ON INCAPACITY LEAVE AND FOR ILL-HEALTH RETIREMENT (HEREIN REFERRED TO AS THE *PILIR*)

1. DEFINITIONS

In *PILIR* any term to which a meaning has been assigned in the PSA bears that meaning and, unless the context otherwise indicates-

- 1.1. “dpsa” means the Department of Public Service and Administration;
- 1.2. “employment legislation” means the PSA, read with the Public Service Regulations, 2001, as amended and laws governing the appointment of persons in the services and state educational institutions;
- 1.3. “Employer ” means the Head of Department or his/her designated office, which will be responsible for the handling and investigation of incapacity leave applications and ill-health retirement applications;
- 1.4. “GEPF” means the Government Employees Pension Fund;
- 1.5. “Head of Department” means the incumbent of a post mentioned in the second column of Schedules 1, 2 and 3 of the PSA;
- 1.6. “Health Risk Manager” means an independent natural or juristic person appointed by the Employer to advise on the granting of incapacity leave and ill-health retirement of employees;
- 1.7. “incapacitated” means the inability to perform some or all of one’s assigned functions as a result of incapacity;
- 1.8. “incapacity” means an illness or injury;
- 1.9. “Leave Determination” means the Determination on leave of Absence in the Public Service made by the Minister for Public Service and Administration in terms of section 3(3)(c) of the PSA, as amended from time to time;
- 1.10. “LRA” means the Labour Relations Act, 1995 (Act 66 of 1995), as amended;
- 1.11. “MISS” means the *Minimum Information Security Standards* as approved by Cabinet in 1996;
- 1.12. “PSA” means the Public Service Act, 1994 (promulgated under proclamation 103 of 1994, as amended);
- 1.13. “PSCBC” means the Public Service Co-ordinating Bargaining Council; and
- 1.14. “services” means the South African Police Service and the Department of Correctional Services

2. SCOPE

PILIR applies to all employees appointed in terms of the Public Service Act, 1994. Where persons employed in the services or state educational institutions are not excluded from the



provisions of *PILIR*, those provisions apply only in so far as they are not contrary to the laws governing their employment.

3. OVERVIEW

3.1 DETERMINATION ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE

The leave dispensation as determined in the *Leave Determination*, read with the applicable collective agreements¹, provides for normal sick leave of 36 working days in a sick leave cycle of three years. If an employee has exhausted his/her normal sick leave, the Employer, may at his/her discretion grant additional incapacity leave, i.e. temporary incapacity leave and where applicable permanent incapacity leave. For this purpose the Employer must conduct an investigation into the nature and extent of the employee's incapacity. Such investigations must be carried out in accordance with item 10(1) of Schedule 8 of the LRA.

3.2 ILL-HEALTH RETIREMENTS IN TERMS OF EMPLOYMENT LEGISLATION

3.2.1 The provisions regulating ill-health retirements are contained in the applicable employment legislation.

3.2.2 The Employer may, in terms of the applicable employment legislation, consider on the basis of medical evidence, the discharge of an employee on account of ill-health.

3.2.3 The Employer may, in addition to medical evidence presented by the employee, request the employee to undergo a medical examination.

4. OBJECTIVES

The objectives of *PILIR* are to set up structures and processes, which will ensure-

- 4.1. intervention and management of incapacity leave in the workplace to accommodate temporary or permanently incapacitated employees; and
- 4.2. that rehabilitation, re-skilling, re-alignment and retirement, where applicable, of temporary or permanently incapacitated employees are facilitated, where appropriate.

5. MISSION

The mission of *PILIR* is to-

- 5.1. adopt a holistic approach to health risk management, by seeking synergies with wellness and disease management programmes provided by employees' medical schemes and by implementing sick leave management as well as rehabilitation and re-skilling structures in conjunction with health risk management;
- 5.2. prevent abuse of sick leave by managing incapacity or ill-health as far as possible;
- 5.3. adopt a scientific approach to health risk management based on sound medical, actuarial and legal principles;

¹PSCBC Resolution 7 of 2000 as amended by PSCBC Resolutions 5 of 2001 and PSCBC Resolution 15 Of 2002



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- 5.4. involve the various stakeholders in the health risk management processes and structures;
 - 5.5. implement health risk management that is consistent, fair and objective; and
 - 5.6. support health risk management that is cost effective and financially sound.

6. ROLE PLAYERS

In the management of incapacity leave and ill-health retirement, the role players will be the following:

- 6.1. The **dpsa**: The **dpsa** will develop and maintain *PILIR*. The **dpsa** and National Treasury: Pensions Administration shall be jointly responsible for the appointment of the Health Risk Manager. The **dpsa** will also provide advice on the interpretation and application of *PILIR*.
- 6.2. The **Government Employees Pension Fund (GEPF)**: The GEPF shall deal with the processing of Employer -approved applications for ill-health retirements.
- 6.3. The **National Treasury Pensions Administration**: The National Treasury Pensions Administration and **dpsa** shall be jointly responsible for the appointment of the Health Risk Manager. The National Treasury Pensions Administration shall be responsible for the funding, administration and management of the *PILIR* sub-programme on the National Treasury Budget Vote No 8, Programme 7.
- 6.4. The **Health Risk Manager**: The Health Risk Manager is an entity of independent multi-disciplinary medical experts, specializing in occupational medicine appointed by the **dpsa** and the National Treasury: Pensions Administration. The Health Risk Manager will assess and provide advice to the Employer in respect of an employee's application for incapacity leave and ill-health retirement within specified timeframes. The systems and administrative capacity for handling the volume of forms, as well as the medical knowledge and experience to do incapacity leave and ill-health retirement assessments are the responsibility of the Health Risk Manager. The Health Risk Manager shall provide training to departments on *PILIR*. The Health Risk Manager shall provide regular reports to the **dpsa**, National Treasury: Pensions Administration, and the Employer .
- 6.5. The **Employer**: The Employer shall in terms of *PILIR* be responsible to process applications and complete reports within the specified time frames. Where applicable the Employer will engage with the Health Risk Manager, the **dpsa** and GEPF. The Employer shall, within the scope of his/her authority and with due consideration of the Health Risk Manager's advice, take a final decision on an employee's application for incapacity leave and/or ill-health retirement.
- 6.6. The **Employee**: The employee shall submit application forms for either incapacity leave or ill-health retirement. The employee shall submit medical certificates and reports as determined in terms of *PILIR* and in accordance with the *Leave Determination*.



7. THE MANAGEMENT OF TEMPORARY AND PERMANENT INCAPACITY LEAVE

7.1 TEMPORARY INCAPACITY LEAVE

- 7.1.1. Incapacity leave is not an unlimited amount of additional sick leave days at an employee's disposal. Incapacity leave is additional sick leave granted conditionally at the Employer's discretion, as provided for in the *Leave Determination* and *PILIR*.
- 7.1.2. An employee who has exhausted his/her normal sick leave, referred to in paragraph 12 of the *Leave Determination*, during the prescribed leave cycle and who according to the treating medical practitioner requires to be absent from work due to a temporary incapacity, may apply for temporary incapacity leave with full pay on the applicable application forms prescribed in terms of *PILIR* in respect of each occasion.
- 7.1.3. For purposes of managing temporary incapacity leave and the application of *PILIR*, temporary incapacity leave is regarded to be-
- 7.1.3.1. 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
- 7.1.3.2. a long period of incapacity leave, if the 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.
- 7.1.4. Applications for temporary incapacity leave must be submitted on the following prescribed application forms:
- 7.1.4.1. Annexure A for short periods of incapacity leave; or
- 7.1.4.2. Annexure B for long periods of incapacity leave.
- 7.1.5. For an employee's application for temporary incapacity leave to be considered the -
- 7.1.5.1. employee must submit sufficient proof that s/he is too ill/injured to perform his/her work satisfactorily;
- 7.1.5.2. application form must, regardless the period of absence, be accompanied by a medical certificate issued and signed by a medical practitioner that certifies his/her condition as temporary incapacity and if the employee has consented, the nature and extent of the incapacity. Please also refer to paragraph 15 of the *Leave Determination* in respect of the acceptance of medical certificates;
- 7.1.5.3. employee is in accordance with item 10(1) of Schedule 8 to the LRA, afforded the opportunity to submit together with his/her application form-



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- (a) any medical evidence related to the medical condition of the employee, such as medical reports from a specialist, blood tests results, x-ray results or scan results, obtained at the employee's expense; and
 - (b) any additional written motivation supporting his/her application;
- 7.1.5.4. employee is requested to give his/her consent that medical information/records be disclosed to the Employer and/or its Health Risk Manager and to undergo further medical examinations in terms of the assessment process described in *PILIR*.
- 7.1.6. An employee must submit his/her application for temporary incapacity leave in respect of clinical procedures in advance, unless the treating medical practitioner certifies that such procedures has to be conducted as an emergency.
- 7.1.7. If overcome by a sudden incapacity, 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 incapacity prevents the employee to inform the supervisor/manager personally.
- 7.1.8. 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.
- 7.1.9. If the employee fails to submit an application within the period indicated in paragraphs 7.1.8, above, the following arrangements apply:
- 7.1.9.1. The employee's manager/supervisor must immediately notify the employee that if such application is not received within 2 working days, the sick leave period will be deemed to be leave without pay. If the employee fails to submit the application on time or submit compelling reasons or compelling reasons exist why the application cannot be submitted, the supervisor/manager must immediately inform the relevant personnel section/office that relevant absence must be covered by annual leave (with the employee's consent) and/or unpaid leave if insufficient annual leave credits are available and if the employee failed to notify the Employer of his/her choice.
 - 7.1.9.2. Failure by the employee to submit an 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 should be taken.

7.2. SHORT PERIOD OF TEMPORARY INCAPACITY LEAVE (1-29 working days requested per occasion)

- 7.2.1. The Employer must immediately on receipt of the employee's application in the designated office register the date of receipt on the application form and a central register/database.



7.2.2. The Employer must ***within 5 working days*** from receipt of the employee's application for temporary incapacity leave-

7.2.2.1. verify that the employee has-

(a) completed and signed Parts A and B of the application form. An incomplete and unsigned application form must immediately be returned to the employee. An incomplete and unsigned application form shall not be considered. The date on which the employee re-submits his/her complete and signed application to the Employer will be deemed the date of receipt for purposes of *PILIR* and the *Leave Determination*; and

(b) attached to his/her application the under-mentioned documents/information. Please use the checklist at Part D, provided on the application form. The Employer must not remove any documents provided additionally by the employee, since it may jeopardise the outcome of the application:

i) **Compulsory information**

A. A medical certificate as determined in the *Leave Determination*.

ii) **Optional information**

A. Current medical reports not older than 6 months and not older than 2 months in the case of psychiatric cases;

B. Current blood tests, x-ray results, scan results, etc; and

C. Additional written motivation provided by the employee;

7.2.2.2. **conditionally** grant a maximum of 30 consecutive working days temporary incapacity leave with full pay subject to the outcome of his/her investigation into the nature and extent of the employee's incapacity. Please use Part C of the application form for this purpose. The employee must accordingly be notified in writing. Please use the example of the *pro forma* letter at Annexure C; and

7.2.2.3. **immediately** complete the department's report to the Health Risk Manager provided for in Part D of the application form and refer the application form to the Health Risk Manager together with -

(a) the employee's sick leave records for at least the current sick leave cycle and if available for the previous sick leave cycle;

(b) the employee's annual and other leave records for the corresponding periods.



(A summary of this information could be retrieved from PERSAL, i.e. the dedicated PERSAL function is # 4.5.11-Enquiry: Leave/Leave Credits).

- 7.2.3. The Health Risk Manager must acknowledge receipt of the above-mentioned report within **2 working days** and confirm in writing that the Employer shall receive feedback on the application within **12 working days**. It is incumbent on the Employer to confirm that the Health Risk Manager receives the report and required attachments.
- 7.2.4. The Health Risk Manager must then undertake an assessment. The purpose of the assessment is to-
- 7.2.4.1. determine the validity of the application for temporary incapacity leave;
 - 7.2.4.2. determine the need for ongoing temporary incapacity leave;
 - 7.2.4.3. determine the appropriate duration of the leave;
 - 7.2.4.4. provide preliminary advice on the management of the condition; and
 - 7.2.4.5. advise a full health assessment, if applicable.
- The Health Risk Manager and Employer must adhere to the guidelines for incapacity assessment at Annexure G to enhance objective, equitable and consistent advice and decision-making.
- 7.2.5. The assessment by the Health Risk Manager shall include, among others-
- 7.2.5.1. scrutiny of the available medical information, sick leave certificate(s) by a medical practitioner and sick leave profile for the current and previous (if applicable) sick leave cycles, in conjunction with the employee's annual leave profile for the corresponding periods (if available);
 - 7.2.5.2. if the employee has consented thereto, contact with the treating medical practitioner to verify information where necessary; and
 - 7.2.5.3. categorising the application for temporary incapacity leave into one of the categories referred to in paragraph 7.2.6 hereunder and prepare advice to the Employer on the basis thereof.
- 7.2.6. The Health Risk Manager must divide applications for short periods of incapacity leave into the following categories:
- 7.2.6.1. Employees who applied for clearly invalid reasons and for whom temporary incapacity leave should be declined.
 - 7.2.6.2. Employees who applied for valid reasons and for whom temporary incapacity leave should be granted for a certain period.



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- 7.2.6.3. Employees who applied for valid reasons and to whom temporary incapacity leave should be granted subject to them undergoing specified medical treatment.
- 7.2.6.4. Employees who applied for valid reasons and who must undergo a secondary assessment in accordance with *PILIR*.
- 7.2.7. The Health Risk Manager may request further information before concluding its advice to the Employer.
- 7.2.8. The Health Risk Manager must, while maintaining and protecting the confidentiality relating to medical information, in the event of the categories contemplated in paragraph 7.2.6 above, forward its advice to the Employer. Applications falling under the category sited in paragraph 7.2.6.4, must be dealt with in accordance with the assessment procedure for long periods of temporary incapacity leave as set out in paragraph 7.3.5.
- 7.2.9. The Employer must within 30 working days after the receipt of both the application form and medical certificate referred to in paragraphs 7.1.4 and 7.1.5, approve or refuse temporary incapacity leave granted conditionally. In making a decision, the Employer must apply his/her mind to the medical certificate (with or without describing the nature and extent of the incapacity) contemplated in paragraph 7.1.5.2, medical information/records contemplated in paragraph 7.1.5.4 (if the employee consented to disclosure), the Health Risk Manager's advice, the additional information supplied by the employee in paragraph 7.1.5.3 (if any) and all other relevant information available to the Employer and based thereon approve or refuse the temporary incapacity leave granted conditionally, on conditions that the Employer may determine, e.g. to return to work, etc.

Please use Part F of the application form for purposes of the decision-making process.

7.2.10. If the Employer -

- 7.2.10.1. approves the temporary incapacity leave granted conditionally, such leave must be converted into temporary incapacity leave; or
- 7.2.10.2. refuses the temporary incapacity leave granted conditionally, s/he must notify the employee in writing-
- (a) of the refusal;
 - (b) of the reasons for the refusal;
 - (c) that if s/he is not satisfied with the Employer's decision, that s/he may lodge a grievance as contemplated in par. 10; and
 - (d) that s/he must notify the Employer in writing within 5 working days of the date of the notice to him/her, whether or not the period of conditional incapacity leave must be covered by annual leave (to the extent of the available annual



leave credits) or unpaid leave and that, if s/he fails to notify the Employer of his/her choice, the period will be covered by unpaid leave.

Please refer to an example of a draft reply at Annexure D. The draft reply must be adapted according to the circumstances of each individual case.

7.2.11. The Employer must cover the period of absence, referred to in paragraph 7.2.10.2 in accordance with the employee's written notification or, if the employee fails to notify that the Employer in terms of that paragraph or the annual leave credits are insufficient, the relevant period of absence must be covered by unpaid leave.

7.3. LONG PERIODS OF TEMPORARY INCAPACITY LEAVE (30 working days or more requested per occasion)

7.3.1. An employee in this category may be subjected to a full assessment by the Health Risk Manager, which may include a second or further medical opinion and/or functional assessment by an occupational therapist. This will allow proper and detailed evaluation of the employee's health condition and the opportunity to assess whether the condition is serious enough to warrant temporary incapacity leave for a long period or otherwise, and where applicable alternate employment, or to adapt the work circumstances/duties of the employee in order to accommodate the employee, in his/her work environment. The assessment process shall take place in two stages, where necessary.

7.3.2. The Employer must immediately, on receipt of the employee's application in the designated office, register the date of receipt on the application form, as well as a central register/database.

7.3.3. The Employer must ***within 5 working days*** from receipt of the employee's application for temporary incapacity leave-

7.3.3.1. verify that the employee has-

- (a) completed and signed Parts A and B of the application form, and obtained his/her medical practitioners inputs as per Part C of the application form. An incomplete and unsigned application form must immediately be returned to the employee. An incomplete and unsigned application form shall not be considered. The date on which the employee re-submits his/her complete and signed application to the Employer will be deemed the date of receipt for purposes of *PILIR* and the *Leave Determination*; and
- (c) attached to his/her application the under-mentioned documents/information. Please use the checklist at Part D, provided on the application form. The Employer must not remove any documents provided additionally by the employee, since it may jeopardise the outcome of the application:



i) **Compulsory information**

A medical certificate as determined in the *Leave Determination*.

ii) **Optional information**

A. Current medical reports not older than 6 months and not older than 2 months in the case of psychiatric cases;

B. Current blood tests, x-ray results, scan results, etc; and

C. Additional written motivation provided by the employee;

7.3.3.2. **conditionally** grant a maximum of 30 consecutive working days temporary incapacity leave with full pay subject to the outcome of his/her investigation into the nature and extent of the employee's incapacity. Please use Part D of the application form for this purpose. The employee must accordingly be notified in writing. Please use the example of the *pro forma* letter at Annexure C; and;

7.3.3.3. **immediately** complete the department's report to the Health Risk Manager provided for in Part D of the application form and refer the application form to the Health Risk Manager together with -

(a) the employee's sick leave records for at least the current sick leave cycle and if available for the previous sick leave cycle;

(b) the employee's annual and other leave records for the corresponding periods.

(a) (A summary of this information could be retrieved from PERSAL, i.e. the dedicated PERSAL function is # 4.5.11- Enquiry: Leave/Leave Credits).

7.3.4. The Health Risk Manager must acknowledge receipt of the above-mentioned report within **2 working days** and confirm in writing that the Employer shall receive feedback on the application **within 12 working days**. It is incumbent on the Employer to confirm that the Health Risk Manager receives the documentation as required.

7.3.5. Assessment Process By The Health Risk Manager

7.3.5.1. **Primary Assessment**

(a) The Health Risk Manager must within **12 working days** advise the Employer on the employee's application for temporary incapacity leave for either the full period, if a secondary assessment is not necessary, or a maximum of 30 working days



in those instances where a need has been identified for a secondary assessment.

- (b) The purpose of the assessment is to-
- i) determine the validity of the application for temporary incapacity leave;
 - ii) determine the need for ongoing temporary incapacity leave;
 - iii) determine the appropriate duration of the leave;
 - iv) provide preliminary advice on the management of the condition; and
 - v) advise a full health assessment, if applicable.

The Health Risk Manager and Employer must adhere to the guidelines for incapacity assessment at Annexure G to enhance objective, equitable and consistent advice and decision-making.

- (c) The assessment by the Health Risk Manager must include, among other, the following:
- i) The scrutiny of the available medical information; sick leave certificate(s) by a medical practitioner, additional information provided by the employee with his/her application in the form of the medical reports, test results and additional motivation, as well as the employee's sick leave profile for the current and previous (if applicable) sick leave cycles, in conjunction with the employee's annual leave profile for the corresponding periods (if available).
 - ii) If the employee consented thereto, contact with the treating medical practitioner to verify information where necessary.
 - iii) The impact that the employee's medical condition has on his/her work performance and work attendance, if possible.
 - iv) By categorising the application for temporary incapacity leave into one of the categories referred to in paragraph 7.3.5.2 (e).
- (d) The Health Risk Manager must forward its advise on the outcome of the primary assessment to the Employer in respect of the following:
- i) The validity of the application for incapacity leave.
 - ii) The appropriate duration of the leave.



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- iii) The categories contemplated in par. 7.3.6.2 (e), whilst maintaining confidentiality relating to medical information.
 - iv) The need of the Health Risk Manager to proceed with the secondary assessment to thoroughly investigate-
 - the necessity for ongoing temporary incapacity leave;
 - the management of the condition; and
 - whether the incapacity is of a permanent nature and whether the Employer should investigate and consider alternate employment, or to adapt the work circumstances/duties of the employee in order to accommodate the employee, or to retire the employee on grounds of ill-health.

In such event, the Health Risk Manager must immediately continue with the secondary investigation.

- (e) The Employer must within 30 working days after the receipt of both the application form and medical certificate referred to in paragraphs 7.1.4 and 7.1.5.2, approve or refuse temporary incapacity leave granted conditionally, or where applicable the approval or refusal of additional temporary incapacity leave. In making a decision, the Employer must apply his/her mind to the medical certificate (with or without describing the nature and extent of the incapacity) contemplated in paragraph 7.1.5.2, medical information/records contemplated in paragraph 7.1.5.4 (if the employee consented to disclosure), the Health Risk Manager's advice, the additional information supplied by the employee in paragraph 7.1.5.3 (if any) and all other relevant information available to the Employer and based thereon approve or refuse the temporary incapacity leave granted conditionally, on conditions that the Employer may determine, e.g. to instruct the employee to return to work while the secondary assessment is undertaken. Such instruction should however, be considered and applied with circumspect. However, should the employee fail to adhere to such an instruction s/he expose him/herself to possible disciplinary action.

Please use Part F of the application form for purposes of the decision-making process.

- (f) If the Employer -
 - (i) approves the temporary incapacity leave granted conditionally, such leave must be converted into temporary incapacity leave; or
 - (ii) refuses the temporary incapacity leave granted conditionally, s/he must notify the employee in writing-



-
- A. of the refusal;
 - B. of the reasons for the refusal;
 - C. that if s/he is not satisfied with the Employer's decision, that s/he may lodge a grievance as contemplated in par. 10; and
 - D. that s/he must notify the Employer in writing within 5 working days of the date of the notice to him/her, whether or not the period of conditional incapacity leave must be covered by annual leave (to the extent of the available annual leave credits) or unpaid leave and that, if s/he fails to notify the Employer of his/her choice, the period will be covered by unpaid leave.

Please refer to an example of a draft reply at Annexure D. (This letter must be adapted according to the circumstances of each individual case).

- (g) The Employer must cover the period of absence, referred to in paragraph 7.3.5.2(e) in accordance with the employee's written notification or, if the employee fails to notify that the Employer in terms of that paragraph or the annual leave credits are insufficient, the relevant period of absence must be covered by unpaid leave.
- (h) In the instance where the Health Risk Manager identified and continued with the need for the secondary assessment, the employee must be informed concurrently with the decision in paragraph 7.3.5.2(e), and the fact that s/he has to avail him/herself for possible medical examinations, if the employee has given his/her consent. The Employer may in such an instance conditionally grant the employee additional days temporary incapacity leave pending the outcome of the secondary assessment.

7.3.5.2. **Secondary Assessment**

- (a) Once the Health Risk Manager has identified the need for a secondary assessment in its advice to the Employer, it must automatically continue with such an assessment.
- (b) For purposes of the secondary assessment the Health Risk Manager or the Employer may request additional information from either the Employer and/or the employee to-
 - i) investigate, verify or expand information received;
 - ii) provide further independent and impartial opinions on the nature and extent of the condition/s on which the application is based; and/or



-
- iii) ascertain more precisely the functional implications of the condition(s) on the employee's work performance.
- (c) Once there is adequate information, consistent criteria will be applied to assess an application in an objective and equitable manner to determine the nature and extent of the employee's incapacity, with due consideration to-
- i) the need for ongoing temporary incapacity leave (i.e. beyond 30 working days),
 - ii) the management of the condition; and
 - iii) whether the incapacity is of a permanent nature and whether the Employer should investigate and consider alternate employment, or to adapt the work circumstances/duties of the employee in order to accommodate the employee, or to retire the employee on grounds of ill-health.
- (d) The Health Risk Manager and the Employer must adhere to the following basic assessment criteria, in accordance with the guidelines at Annexure G, to assess an employee's application and to enhance objective, equitable and consistent advice and decision-making:
- i) The nature and extent of the physical impairment, with reference to factors such as mobility, strength, co-ordination, balance, vision, hearing and pain.
 - ii) The nature and extent of psychological/mental impairment, with reference to factors such as mood, cognition, behaviour, communication and motivation.
 - iii) Job specific factors, such as activities of daily work, key performance areas, specific occupational requirements, quality of work, productivity and work habits.
 - iv) Duration of the condition.
 - v) Residual functional capacity of the employee (the employee's capabilities despite the medical condition/s), with reference to factors such as effort, tolerance, endurance and psychological functioning.
 - vi) Potential to perform alternative work, taking into account the particular employee's education, training, work experience, aptitude and age.
 - vii) Rehabilitation and re-skilling potential, taking into account the reasonableness thereof with regard to the particular medical condition, the anticipated outcome, the



-
- availability of an appropriate service provider, the duration and cost.
- viii) Future earning potential of an employee, considering existing skills and plans to generate income.
- (e) The Health Risk Manager must divide applications for a long period of temporary incapacity leave into the following categories:
- i) Employees who applied for clearly invalid reasons and for whom temporary incapacity leave should be declined.
 - ii) Employees who applied for valid reasons and for whom temporary incapacity leave should be granted for a certain period.
 - iii) Employees who applied for valid reasons and to whom temporary incapacity leave should be granted subject to them undergoing specified medical treatment.
 - iv) Employees who applied for valid reasons and in respect of whom the Health Risk Manager advised that his/her incapacity is permanent and whose cases the Employer needs to investigate/consider with a view to alternate employment, or to adapt the work circumstances/duties of the employee in order to accommodate the employee, or to retire the employee on grounds of ill-health, if applicable.
- (f) While the secondary assessment is undertaken, the Employer may instruct an employee to return to work, if considered appropriate. If an employee-
- i) fails to adhere to such instruction; or
 - ii) presents a medical certificate for the same condition under consideration, the employee may expose him/herself for possible disciplinary action.
- (g) If an application falls under any of the listed categories in (i) to (iv), contemplated in subparagraph (e) above, the Health Risk Manager must advise the Employer on the application, while maintaining the confidentiality relating to medical information.
- (h) The Employer must apply his/her mind to the medical certificate (with or without describing the nature and extent of the incapacity) contemplated in paragraph 7.1.5.2, medical information/records contemplated in paragraph 7.1.5.4 (if the employee consented to disclosure), the Health Risk Manager's advice, the additional information supplied by the employee in terms of paragraph 7.1.5.3 (if any) and all other relevant



information available to the Employer and based thereon decides on-

- i) the approval or refusal of the ongoing temporary incapacity leave,
 - ii) the management of the employee's medical condition;
 - iii) the approval or refusal of the additional days temporary incapacity leave granted pending the outcome of the secondary assessment;
 - iv) other conditions which the Employer may deem fit, e.g. to instruct the employee to return to work;
 - v) whether the condition is permanent, and if so action plans to implement the Health Risk Manager's advice in respect of the possible alternate employment, adaptation of the employee's work circumstances/duties or to retire the employee on grounds of ill-health (if applicable)
- (i) If the Employer -
- i) approves the temporary incapacity leave granted conditionally, such leave must be converted into temporary incapacity leave; or
 - ii) refuses the temporary incapacity leave granted conditionally, s/he must notify the employee in writing-
 - A. of the refusal;
 - B. of the reasons for the refusal; and
 - C. that he is not satisfied with the Employer's decision, that s/he may lodge a grievance as contemplated in par. 10; and
 - D. that s/he must notify the Employer in writing within 5 working days of the date of the notice to him/her, whether or not the period of conditional incapacity leave must be covered by annual leave (to the extent of the available annual leave credits) or unpaid leave and that, if s/he fails to notify the Employer of his/her choice, the period will be covered by unpaid leave.

Please refer to an example of a draft reply at Annexure D. The draft reply must be adapted according to the circumstances of each individual case).



- (j) The Employer must cover the period of absence, referred to in paragraph (i) ii) in accordance with the employee's written notification or, if the employee fails to notify that the Employer in terms of that paragraph or the annual leave credits are insufficient, the relevant period of absence must be covered by unpaid leave.

7.4. PERMANENT INCAPACITY LEAVE

- 7.4.1. An employee shall not directly access or apply for permanent incapacity leave. The Employer may grant an employee up to a maximum of 30 working days' permanent incapacity leave once s/he has following the above-mentioned assessment process determined that an employee's condition is permanent. The Employer 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.
- 7.4.2. 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 or her benefits. If the redeployment necessitates reallocation to a job of a lower grading, it must be explained well in advance and the continued utilisation of the employee must, in this regard, be with her or his consent. If the employee's redeployment entails retraining or retooling, the Employer must take requisite resources (time and financial) and potential returns into consideration before approving redeployment. The redeployment of an employee's services must ensure the optimal utilisation of her or his competencies and may not compromise service delivery.
- 7.4.3. If both the Employer and the employee are convinced that the employee will never be able to render an effective service at her or his level or rank, the employee/Employer may proceed with the process of termination of service on grounds of ill-health, which be dealt with in terms of section 17(2)(a) of the PSA.
- 7.4.4. The Employer may extend the period, referred to in paragraph 7.4.1, up to a maximum 30 working days in order to finalise processes already commenced. If the processes are not completed within the 60 working days, the case must be referred to the Director-General: Public Service and Administration together with a report explaining the reasons for the delay.

8 ILL-HEALTH RETIREMENT

- 8.1 The Employer must submit an application for ill-health retirement as soon as it is evident that an employee may not be able to return to work following incapacity. An employee may decide to apply for ill-health retirement.
- 8.2 An application for ill-health retirement may be lodged even before an employee's normal sick leave credits have been exhausted.



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- 8.3 The advantages of early submission include:
- 8.3.1 sufficient time for considering additional requirements, e.g. the possible redeployment, reskilling, etc. of the employee;
 - 8.3.2 early commencement of processing payments;
 - 8.3.3 allows time for appropriate action by the Employer when the application is repudiated; and
 - 8.3.4 allows early intervention and management of a condition, thereby preventing it from resulting in permanent incapacity.

8.4 APPLICATION FOR ILL-HEALTH RETIREMENT

8.4.1 The ill-health retirement form at Annexure E must be completed and forwarded without delay to the Health Risk Manager with all the supporting information. However, if an employee was as a result of his/her application for incapacity leave, subject to a full assessment by the Health Risk Manager, the shortened application contemplated in paragraph 8.7 must be used.

8.4.2 The ill-health retirement form at Annexure E comprises of three parts, i.e.:

Part A: Statement by the Employer

Part B: Statement by the employee

Part C: Statement by the treating medical practitioner

All three parts must be completed before submission to the Health Risk Manager.

8.4.3 Part A: Statement By The Employer

8.4.3.1 A Human Resources representative and /or by the employee's line manager or supervisor must complete this part.

8.4.3.2 A job description and sick leave record must be attached to the application.

8.4.3.3 The purpose of this form is to gather information on the impact the employee's ill-health has on work performance and any feasible modifications to work duties and work environment that may be made to accommodate the employee.

8.4.4 Part B: Statement By The Employee

8.4.4.1 The employee must complete this part. If s/he is unable to complete it (on account of health-related factors or language limitations), another person or a departmental representative may assist in completing the form.



8.4.4.2 This part contains personal information on the employee, as well as a description of his/her impairment and its effect on his/her work duties.

8.4.4.3 A certified copy of the employee's Identification Document must be attached to the application.

8.4.5 Part C: Statement By The Treating Medical Practitioner

8.4.5.1 The medical practitioner(s), preferably a medical specialist treating the employee on whom the application is based, must complete this part. If a general practitioner completes the form, an additional report from a medical specialist specialising in the medical field related to the employee's condition, must be obtained and also submitted. If more than one medical practitioner is involved in the treatment of the employee, each of the medical practitioners must complete a form.

8.4.5.2 Any other relevant medical reports, results of investigations, such as X-rays, blood tests, ECG and histology results and reports by other health care professionals must be attached to the application.

8.4.5.3 The cost of consultations and completion of required reports by the medical practitioners is for the account of the employee.

8.5 ADDITIONAL REQUIREMENTS FOR HIGH INCIDENCE APPLICATIONS

8.5.1 As a result of the exceptionally high incidence of applications being submitted on psychiatric grounds (e.g. depression, post-traumatic stress disorder, adjustment disorder) and due to back problems, it has become necessary to apply additional measures to scrutinise the validity of such applications.

8.5.2 Applications based on psychiatric conditions require extra information over and above the completion of the three forms referred to above. The employee must attach the following additional reports to his/her application for ill-health retirement:

8.5.2.1 A recent clinical report by the treating psychiatrist, which is not older than 2 months, detailing the history of the condition, DSM-IV classification, duration of treatment, response to treatment modalities attempted, current management of the condition and future treatment strategy.

8.5.2.2 A recent clinical report by the treating psychologist, which is not older than 2 months.

8.5.2.3 A recent clinical report by an independent psychiatrist selected on the advice from the Health Risk Manager.

8.5.3 In respect of an application based on spinal (neck and back) conditions the employee must attach the following extra information, over and above the completion of the three forms referred to above, to his/her application for ill-health retirement:



8.5.3.1A recent clinical report by the treating specialist in the field of orthopaedics or neurology, which is not older than 6 months.

8.5.3.2A recent report by the treating physiotherapist or occupational therapist, which is not older than 6 months.

8.5.3.3A recent clinical report by an independent specialist in the field of orthopaedics or neurology selected on the advice of the Health Risk Manager.

8.6 ASSESSMENT PROCESS

8.6.1 The Health Risk Manager must assess an employee's application for ill-health retirement, which involves, amongst others, scrutinising the available medical and occupational information by the treating medical practitioners, conferring with the relevant medical practitioners (if necessary), obtaining a second opinion (if necessary) and additional information, if requested. The Health Risk Manager must provide its advice to the Employer with regard to the following:

8.6.1.1 The validity of the application for ill-health retirement.

8.6.1.2 The management of the condition, if applicable.

8.6.1.3 Whether the Employer should investigate and consider alternate employment, or to adapt the work circumstances/duties of the employee to accommodate the employee, if applicable.

8.6.2 The Health Risk Manager must consider the following factors:

8.6.2.1 The personal and occupational profiles of the employee, as obtained from the statements by the employee and the Employer.

8.6.2.2 The medical information detailing the nature and severity of the condition on which the application is based, as well as any additional information.

8.6.2.3 The impact that the medical condition has on the employee's work performance and work attendance.

8.6.3 The Health Risk Manager may request additional information to-

8.6.3.1 investigate, verify or expand information received; and/or

8.6.3.2 ascertain more precisely the functional implications of the condition(s) on the employee's work performance.

8.6.4 The Health Risk Manager may, depending on circumstances, request the Employer to supply information from selected internal sources, such as line managers and human resources practitioners.

8.6.5 The Health Risk Manager may also request information from external sources and service providers, which will be selected with reference to their expertise,



impartiality and location and who would be appointed at the discretion of the Health Risk Manager. These include:

- 8.6.5.1 Independent medical specialists.
 - 8.6.5.2 Occupational therapists for functional/work capacity assessments.
 - 8.6.5.3 Psychologists.
 - 8.6.5.4 Private investigators.
- 8.6.6 Once adequate information is available, the Health Risk Manager and Employer must apply the following assessment criteria, in accordance with the guidelines at Annexure G, to assess an employee's and to enhance objective, equitable and consistent advice and decision-making:
- 8.6.6.1 The nature and extent of the physical impairment, with reference to factors such as mobility, strength, co-ordination, balance, vision, hearing and pain.
 - 8.6.6.2 The nature and extent of psychological/mental impairment, with reference to factors such as mood, cognition, behaviour, communication and motivation.
 - 8.6.6.3 Job specific factors, such as activities of daily work, key performance areas, specific occupational requirements, quality of work, productivity and work habits.
 - 8.6.6.4 Duration of the condition and period away from work.
 - 8.6.6.5 Residual functional capacity of the employee (the employee's capabilities despite the medical condition/s), with reference to factors such as effort, tolerance, endurance and psychological functioning.
 - 8.6.6.6 Potential to perform alternative work, taking into account the particular employee's education, training, work experience, aptitude and age.
 - 8.6.6.7 Rehabilitation and re-skilling potential, taking into account the reasonableness thereof with regard to the particular medical condition, the anticipated outcome, the availability of an appropriate service provider, the duration and cost.
 - 8.6.6.8 Future earning potential of an employee, considering existing skills and plans to generate income.
- 8.6.7 The Health Risk Manager shall, with due consideration to its findings on the full assessment of the employee's application, advice to the Employer in respect of the following:
- 8.6.7.1 The validity of the application.



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- 8.6.7.2 The extent of the incapacity (partial /full).
 - 8.6.7.3 The appropriate duration of the incapacity (temporary/ permanent).
 - 8.6.7.4 The potential for alternative work or workplace modifications.
 - 8.6.7.5 The potential for rehabilitation or re-skilling.
 - 8.6.7.6 Future strategy and requirements.
- 8.6.8 The Employer must, after due consideration to the advice from the Health Risk Manager, decide on the following:
- 8.6.8.1 Whether the indisposition is of a permanent/temporary nature.
 - 8.6.8.2 The granting of incapacity leave, if applicable.
 - 8.6.8.3 The outcome of the investigation, if applicable, with regard to-
 - (a) Alternate employment; and
 - (b) Adapting duties or work circumstances to accommodate the employee.
 - 8.6.8.4 The retirement of the employee on grounds of ill-health, if applicable.
- 8.7.1 The Employer must inform the employee in writing of his/her decision, as well as the reasons for the decision if the Employer is declining the employee's application.
- 8.7.2 Once it has been decided that the employee must be retired on grounds of ill-health, the Employer must, without delay, submit the prescribed forms, with copies of all the relevant documentation used for the assessment of the case, including the Health Risk Manager's advice, to the GEPPF for instituting the payment of ill-health benefits.

8.8 SHORTEND APPLICATION FOR ILL-HEALTH

If the Employer, following a full assessment of an employee for purposes of long temporary incapacity leave, decides that the employee should be retired on grounds of ill-health, the shortened application form for ill-health retirement at Annexure F must be completed and submitted without delay to the GEPPF. Copies of the information, which was submitted to the Health Risk Manager, as well as a copy of the Health Risk Manager's advice must be attached to the application form.

9. EMPLOYEES STATIONED ABROAD

- 9.1 If an employee, who is stationed abroad, has to be subjected to a medical examination for purposes of *PILIR*, the Department of Foreign Affairs shall-
 - 9.1.1 assist the Health Risk Manager to identify an appropriate practitioner who could undertake an examination, if required; and



9.1.2 facilitate the necessary medical appointment and obtaining the practitioner's report.

9.2 The cost of medical expenses for members stationed outside the borders of the Republic of South Africa will be for the account of the employer. The Service Provider will only be expected to provide services in line with the fixed fee component of the assessment for short, long or ill-health applications as provided for in the Service Level Agreement.

10. CONCURRENT APPLICATIONS FOR TEMPORARY INCAPACITY LEAVE AND ILL-HEALTH RETIREMENT

An employee, who has already exhausted his/her normal sick leave, may apply for temporary incapacity leave and for ill-health retirement at the same time. The Employer must submit both applications for incapacity leave and ill-health retirement **together** to the Health Risk Manager for an assessment in terms of *PILIR*.

11 DIFFERENCES BETWEEN THE EMPLOYEE AND THE EMPLOYER

11.1 An employee who is not satisfied by a decision by the Employer may lodge a grievance as contemplated in terms of the rules made by the Public Service Commission.

11.2 In terms of section 35 of the PSA, the Employer requires new medical evidence to defend his/her decision. The costs of such medical evidence would be for the account of the Employer. If the employee requires new medical evidence to proof the substance of his/her grievance, the cost will be for the employee's account.

11.3 If an employee refuses to accept the adapted duties or to move to alternative employment, which is more suitable for his/her incapacity, the Employer may, subject to due process being followed, terminate the services of the employee concerned-.

12. DIFFERENCES BETWEEN THE EMPLOYER AND HEALTH RISK MANAGER

12.1 The Health Risk Manager must, in accordance with *PILIR*, provide its advice with regard to the granting of incapacity and the management of illnesses, where applicable, as well as the adjustment of the work environment to meet the incapacity of the employee.

12.2 The Employer, based upon the advice of the Health Risk Manager must take the final decision with regard to the granting of incapacity leave, alternate employment or the adjustment of the employees work environment. If the Employer deviates from the advice of the Health Risk Manager, s/he must-

12.2.1 record the reasons for the deviation in his/her decision; and

12.2.2 in writing inform both the Health Risk Manager and the dpsa of the reason for the deviation.

13. CONFIDENTIALITY

The Employer must, in accordance with the constitutional rights to privacy, the Code of Conduct in the Public Service Regulations treat at all times any information regarding the medical condition of an employee with the necessary respect and confidentiality. Such information may therefore not be disclosed to any other person(s) not authorised to receive such information. If an employee discloses such confidential information of one employee to



any other unauthorized person, it must be viewed in a serious light and disciplinary steps against the transgressing employee should be taken.

13.1 DOCUMENT SECURITY AND MANAGEMENT

13.1.1 CLASSIFICATION OF INFORMATION AND DOCUMENTS

- (a) All forms, documents and information received and generated in terms of *PILIR* must be classified and treated as ‘**Confidential**’ and not as ‘**Personnel Confidential**’.
- (b) The said documents must be *strictly* handled and kept safe in accordance with the prescripts for classified documents as contained in the *MISS*.

13.1.2 PLEDGE OF CONFIDENTIALITY

In terms of the *Code of Conduct* contained in the *Public Service Regulations*, read with the *MISS*, each employee responsible for the handling of applications and information in terms of *PILIR* to honour the confidentiality of matters, documents, discussions, classified or implied as being confidential. For this purpose all such employees must also sign the *Pledge of Confidentiality* at Annexure H.

14. NON-KEPT APPOINTMENTS

- 14.1 As indicated elsewhere in *PILIR*, as well as the *Leave Determination* the Employer may request the employee to subject him/herself to (a) further medical examination(s), if s/he consented thereto. The Employer carries the expenses attached to such medical examinations.
- 14.2 If an employee has consented to any such examination but fails to honour an appointment scheduled by the Health Risk Manager for such examination, the employee shall be held liable for the expenses that may be charged by medical practitioners for non-kept appointments.

15. MONITORING

The dpsa shall closely monitor the application of *PILIR*. The dpsa shall therefore utilize the following reports to analyse the application of *PILIR*:

15.1 HEALTH RISK MANAGER

- 15.1.1 The Health Risk Manager must continuously notify the dpsa of trends in undue delays on the part of the Employer, within the above processes prescribed in *PILIR*. The dpsa will investigate the cause of the delay and make recommendations to the Employer or the Minister for the Public Service and Administration in respect of preventive steps to avoid a similar trend in future.
- 15.1.2 The Health Risk Manager must submit a written report to the dpsa and the Employer in the format and, as a minimum, on the subject matters and at the due dates stipulated in the Service Level Agreement.



15.2 GEPF

The dpsa shall request the GEPF to provide the dpsa with an annual report on the actual ill-health retirements it had effected for the previous year.

15.3 EMPLOYER S

15.3.1 The Employer must report in January of each year, to the DPSA, on the following:

15.3.1.1 In respect of temporary incapacity leave-

- (a) types of illness;
- (b) type of incapacity leave approved;
- (c) acceptance of/deviation from the Health Risk Manager's advice.
- (d) disputes and how it was resolved.

15.3.1.2 In respect of ill-health retirements-

- (a) types of illness;
- (b) acceptance/ rejection of the Health Risk Mangers' advice;
- (c) disputes and how it was resolved.

16. ANNEXURES

The following Annexures are attached to *PILIR*:

- Annexure A: Application Form for Temporary Incapacity Leave Short Periods
- Annexure B: Application Form for Temporary Incapacity Leave Long Periods
- Annexure C: Example of *pro forma* letter on the conditional granting of temporary incapacity leave.
- Annexure D: Example of *pro forma* letter on the outcome of the Employer 's investigation.
- Annexure E: Head of Department's Report To Health Risk Manager For Ill-Health Retirement
- Annexure F: Shortened Application Form For Ill-Health Retirement
- Annexure G: Guidelines For Incapacity Assessment
- Annexure H: Pledge of Confidentiality