

COVID-19: Impacts on annual leave

According to the Directive of Leave issued by the Department of Public Service and Administration (DPSA), employees are entitled to annual leave with full pay, during each leave cycle of 12 months, commencing on 1 January of each year, except if appointed after 1 January.

Measures to prevent the spread of COVID-19 forced workers, except those in the essential services, to work from home to ensure that service delivery continues.

This resulted in problems in instances where employees were instructed to work from home, but the employer had not provided the equipment and set-up to ensure that this is possible. As a result, some employees were not able to work as the employer failed to provide them with the necessary tools. The PSA noted reports alleging that the employer might have forced some employees to take such days, where they were working from home, as leave. This is unfair, as the employer failed to accommodate affected workers.

“The Basic Conditions of Employment Act provides that an employee is entitled to a minimum of 21 consecutive days paid annual leave (about 15 working days) in respect of each annual leave cycle, being a period of 12 months’ employment with the same employer.”

Bowmans Law

Leave is a mutual agreement between the employee and employer. Annual leave should be planned and scheduled at least at the start of a leave cycle, i.e. January of each year. At least ten working days must be taken as leave days during the cycle. The utilisation of this leave must consider the service delivery requirements of an employer. It is therefore critical during the COVID-19 pandemic that service delivery and operational requirements of Government departments are taken into cognisance when leave is approved or denied.

However, the hard lockdown and the decision for non-essential staff to work from home, inevitably had unintended consequences and impacted on some workers’ terms and conditions of employment in terms of leave. Many employees did not utilise their leave and the DPSA Directive guides parties that remaining leave days, if any, be taken no later than six months after the expiry of the relevant leave cycle, where after employees are expected to forfeit unused leave credits.

The PSA called for a special meeting of Public Service Coordinating Bargaining Council in April 2020, requesting the extension of the provision for employees not to forfeit unused leave. This was granted and employees were given up to six months to utilise entitled leave from the affected leave cycle.

Shop stewards are advised to encourage members to make use of this opportunity and take their entitled leave in the gap given.