



t: 012 436 0900 / e: [regsdienste@saou.co.za](mailto:regsdienste@saou.co.za) / w: [www.saou.co.za](http://www.saou.co.za)

## Legal Services Newsletter | Regsdienste Nuusbrief

### Insight 12 of 2020 | Insig 12 van 2020

03/05/2020

#### LEAVE AFTER LOCKDOWN FOR EDUCATORS AS WELL AS NON-EDUCATORS

#### 1. DEPARTMENTALLY EMPLOYED EDUCATORS AS WELL AS NON-EDUCATORS

Due to the current state of disaster in South Africa, it is clear that some SAOU members are very cautious to return to their workplaces.

Although we trust that the employer will take all reasonable steps in terms of the Occupational Health and Safety Act to ensure the safety of their employees against COVID-19, there are still concerns from employees who are considered as high-risk cases when they test positive for COVID -19.

The SAOU supports the reopening of schools, but on the condition that employees will be protected. However, it cannot be ignored that it would be too dangerous for some employees to return to the workplace.

#### VERLOF NA DIE GRENDelperiode vir OPVOEDERS ASOOK NIE-OPVOEDERS

#### 1. DEPARTEMENTEEL-AANGESTELDE OPVOEDERS ASOOK NIE-OPVOEDERS

Weens die ramptoestand waarin Suid-Afrika tans is, is dit duidelik dat sommige SAOU-lede vreesbevange is om na hulle werkplekke terug te keer.

Alhoewel ons vertrou dat die werkgewer alle redelike stappe sal neem om werknemers se veiligheid teen COVID-19, in terme van die Wet op Beroepsgesondheid en Veiligheid, te verseker, bestaan daar nog steeds kommer by werknemers wat geag word as hoë risikogevalle indien hul positief vir COVID-19 getoets word.

Die SAOU ondersteun die heropening van skole, maar met die voorwaarde dat werknemers beskerm sal word. Die feit dat terugkering na die werkplek te gevaelik vir sommige werknemers gaan wees, kan egter nie geïgnoreer word nie.

<p>Due to the contractual responsibility of our members to report for duty, it must be determined whether there is room in employees' current conditions of employment that will assist both the employer and the employee to successfully manage the safety of high risk employees (pregnant women, the elderly as well as individuals who suffer from an underlying illness).</p> <p>The SAOU intends to negotiate with the employer a certain course of action within the current leave measures of educators that will only apply to the state of disaster due to COVID-19. The purpose of the negotiation will be to request the employer to lower his / her discretion when considering the leave for high risk employees as discussed below: (Please note, the usual requirements for applying for the following leave will still apply on employees: Supporting documentation must be included in applications, applications must comply with the prescribed period of submission and application forms must be properly completed).</p>	<p>Weens die kontraktuele verantwoordelikheid van ons lede om aan te meld vir diens, moet daar vasgestel word of daar ruimte in werknemers se huidige diensvoorraad bestaan wat beide die werkgever asook die werknemer sal help om die aansteek van hoë risiko werknemers (swanger vroue, bejaardes asook individue wat aan 'n onderliggende siekte ly) suksesvol te bestuur.</p> <p>Die SAOU is van voorneme om 'n sekere werkswyse binne die huidige verlofmaatreëls van opvoeders asook nie-opvoeders met die werkgever te onderhandel wat slegs van toepassing op die ramptoestand weens COVID-19 sal wees. Die doel van die onderhandeling sal wees om die werkgever te versoek om sy/haar diskresie vir die toestaan van die onderstaande verlof te verlaag vir hoë risiko werknemers: (Let wel, die gewone vereistes om aansoek te doen vir die volgende verlof bly steeds van toepassing op werknemers: Stawende dokumentasie moet by aansoeke ingesluit word, aansoeke moet aan die voorgeskrewe tydperk van indiening voldoen en aansoekvorms moet behoorlik voltooi wees).</p>
<p><b>Sick leave (36 days)</b></p> <p>Educators as well as non-educators are entitled to 36 days sick leave that can be taken within a 3-year cycle. This cycle has already begun in January 2019.</p>	<p><b>Siekverlof (36 dae)</b></p> <p>Opvoeders asook nie-opvoeders is geregtig op 36 dae siekverlof wat geneem kan word binne 'n 3-jaarsiklus. Hierdie siklus het alreeds in Januarie 2019 begin.</p>
<p><b>Short-term incapacity leave (0-29 days) and long-term incapacity leave (30 days and more)</b></p>	<p><b>Korttermyn ongeskiktheidsverlof (0–29 dae) en langtermyn ongeskiktheidsverlof (30 dae en meer)</b></p>
<p>Educators as well as non-educators are entitled</p>	<p>Opvoeders asook nie-opvoeders is geregtig om</p>

to apply for this type of leave after their sick leave is exhausted.	aansoek te doen vir hierdie tipe verlof indien sy/haar siekverlof uitgeput is.
<b>Leave for quarantine purposes</b>	<b>Verlof vir kwarantyn doeleinades</b>
<p>In terms of this leave measure, special leave (no fixed number of days) on full pay may be granted to an <b>educator</b> who is exposed to a medical condition which results in the quarantine of such person.</p> <p>Sick leave may also be granted for a <b>non-educator</b> in respect of periods where the non-educator must be quarantined or isolated for at least 10 consecutive days.</p> <p>The leave measure further states that a certificate from a physician stating the quarantine period, must be included in the application as well as the reasons why such leave is needed.</p>	<p>In terme van hierdie verlofmaatreël kan spesiale verlof (geen vaste hoeveelheid dae) met volle betaling toegestaan word aan 'n <b>opvoeder</b> wat blootgestel is aan 'n mediese toestand wat tot gevolg het dat sodanige persoon onder kwarantyn geplaas moet word.</p> <p>Siekverlof kan ook toegestaan word aan 'n <b>nie-opvoeder</b> vir ten minstens 10 opeenvolgende dae in gevalle waar die nie-opvoeder in kwarantyn geplaas of geïsoleer moet word.</p> <p>'n Sertifikaat van 'n geneesheer wat die periode van kwarantyn vermeld, moet by die aansoek ingesluit word, asook die redes waarom sodanige verlof nodig is.</p>
<b>Maternity leave (4 calendar months)</b>	<b>Kraamverlof (4 kalendermaande)</b>
In terms of this leave measure, maternity leave may be taken four weeks prior to the expected date of birth, but must be taken 14 days prior to the expected date of birth. This leave can also be extended with 184 days unpaid leave.	Ingevolge hierdie maatreël kan kraamverlof vier weke voor die verwagte geboortedatum geneem word, dit moet egter 14 dae voor die verwagte geboortedatum geneem word. Hierdie verlof kan ook met 184 dae onbetaalde verlof verleng word.
<b>Family responsibility leave and special leave for urgent private matters</b>	<b>Gesinsverantwoordelikhedsverlof en spesiale verlof vir dringende privatsake</b>
<p>In terms of this measure, <b>educators</b> have 14 days' leave for both family responsibility as well as special leave for urgent private matters.</p> <p><b>Non-educators</b> only have 10 days for family responsibility leave but have the option to use their vacation leave for urgent private matters.</p>	<p>In terme van hierdie maatreël beskik <b>opvoeders</b> oor 14 dae verlof vir beide gesinsverantwoordelikheid asook spesiale verlof vir dringende privatsake.</p> <p><b>Nie-opvoeders</b> beskik slegs oor 10 dae gesinsverantwoordelikhedsverlof, maar het die opsie om hul vakansieverlof te gebruik vir</p>

	dringende privaatsake.
<b>Special leave for exceptional circumstances (no fixed number of days)</b>	<b>Spesiale verlof vir buitengewone omstandighede (geen vaste hoeveelheid dae)</b>
This measure provides that, in exceptional circumstances, an <b>educator</b> may apply for special leave (no fixed number of days) and be placed on special leave for a reasonable period of time if circumstances warrant it. Such leave shall be without pay unless the employer determines otherwise.	Hierdie maatreël bepaal dat 'n <b>opvoeder</b> in buitengewone omstandighede vir spesiale verlof (geen vaste hoeveelheid dae) kan aansoek doen en vir 'n redelike tydperk op spesiale verlof geplaas word indien omstandighede dit regverdig na oordeel van die werkgewer. Sodanige verlof sal sonder betaling wees tensy die werkgewer anders bepaal.
A <b>non-educator</b> can apply for unpaid leave up to 184 days. Under exceptional circumstances, the employer may grant further unpaid leave without pay in an 18-month period.	'n <b>Nie-opvoeder</b> kan aansoek doen vir onbetaalde verlof tot en met 184 dae. Onder buitegewone omstandighede kan die werkgewer 'n verdere hoeveelheid onbetaalde verlof sonder betaling toestaan in 'n periode van 18 maande.
<b>2. LEAVE FOR OCCUPATIONAL INJURIES AND DISEASES</b>	<b>2. VERLOF VIR BEROEPSBESERINGS EN SIEKTES</b>
An <b>educator</b> as well as a <b>non-educator</b> who, as a result of his / her work, has suffered injuries or suffered occupational diseases, will be entitled to leave on full pay for the period in which he / she cannot work in terms of this leave measure.  The Compensation Commissioner also listed COVID-19 as an illness for which compensation can be obtained by employees for the purposes of the Compensation for Occupational Injuries and Diseases Act. Compensation will only apply to employees who have incurred COVID-19 arising from or during the course of their employment through exposure to confirmed cases in the workplace or after an official work trip to a high-risk country or territory.  The Act determines amongst other things that in	'n <b>Opvoeder asook nie-opvoeder</b> wat as gevolg van sy / haar werk, beserings opdoen of beroepsiektes opdoen, sal in terme van hierdie verlofmaatreël geregtig wees op verlof vir die tydperk wat hy / sy nie kan werk nie.  Die Vergoedingskommissaris het ook vir die doeleindes van die Wet op Vergoeding vir Beroepsbeserings en siektes COVID-19 as 'n siekte, waarvoor vergoeding deur werknemers verkry kan word, gelys. Vergoeding sal slegs van toepassing op werknemers wees wat COVID-19 opgedoen het voortspruitend uit of deur die loop van hul diens deur middel van blootstelling aan bevestigde gevalle in die werkplek of na 'n amptelike werksreis na 'n land of gebied met 'n hoë risiko.  Die Wet bepaal onder andere dat in gevalle waar

<p>cases where a registered medical practitioner recommends self-quarantine, the employer is liable for the employee's compensation during the days of absence.</p> <p>Thus, employees, but especially employees who fall within the high-risk category, have the above-mentioned leave at their disposal to apply for after the lockdown period.</p> <p>The SAOU's primary focus is to assist the employer in developing reasonable steps to ensure the safety of employees as well as to protect the employment of employees who cannot return to their workplaces.</p>	<p>'n geregistreerde mediese praktisyn self-kwarantyn aanbeveel, is die werkgewer vir die werknemer se vergoeding gedurende die dae van afwesigheid aanspreeklik.</p> <p>Dus het bovemelde werknemers, maar veral werknemers wat in die hoë risiko kategorie val, bovemelde verlof tot hul beskikking om voor aansoek te doen na die opheffing van die grendelperiode.</p> <p>Die SAOU se primêre fokus is om die werkgewer by te staan met die ontwikkeling van redelike stappe om die veiligheid van werknemers te verseker asook om werknemers wat nie kan terugkeer na hul werkplekke nie, se indiensneming te beskerm.</p>
<p><b>3. GOVERNING BODY POSTS AND INDEPENDENT SCHOOL APPOINTMENTS</b></p> <p>For Governing Body posts and Independent School appointments, the normal sick leave measures as contractually agreed upon and which is in line with the Basic Conditions of Employment Act, are applicable.</p>	<p><b>3. BEHEERLIGGAAM POSTE EN ONAFHANKLIKE SKOOL AANSTELLINGS</b></p> <p>Vir Beheerliggaamposte en Privaatskool aanstellings geld die normale siekverlof soos kontraktueel ooreengekom en wat inlyn is met die Wet op Basiese Diens Voorwaardes.</p>

**#WantOnsGeeOm**

**SMS "DIENS" NA  
071 456 4375**

\*Normale SMS tariewe geld

**#BecauseWeCare**



**SMS "SERVICE" TO  
071 456 4375**

\*Normal SMS rates apply



+27 12 023 1333

**SAOU DIENSSENTRUM  
SAOU SERVICE CENTRE**

[saou@saou.co.za](mailto:saou@saou.co.za)

