



**dhps&l**

Department:  
Human Settlements, Public Safety & Liaison  
North West Provincial Government  
REPUBLIC OF SOUTH AFRICA

3366 Besemmer str Telkom building  
Industrial site Mafikeng, 2745  
NWDC cnr. University Drive  
Private Bag X 2145, Mmabatho, 2735  
Tel: +27 (18) 391 0400/388 2461/387  
6000

**HUMAN RESOURCE MANAGEMENT  
PUBLIC SAFETY & LIAISON BRANCH**

Safety House 31-34 Molopo Road  
Mafikeng, 2745  
P/Bag X 19 Mmabatho 2735  
Tel: +27 (18) 381 9104/9132  
Fax: +27 (18) 381 9123

**TO: ALL STAFF**

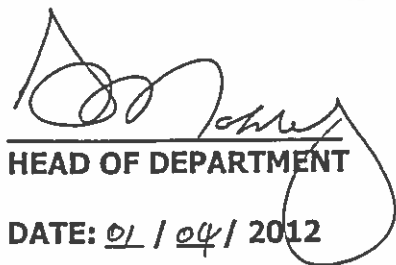
**FROM: THE ACT. HEAD OF DEPARTMENT  
MR. B. MAHLAKOLENG**

**CIRCULAR ON THE ADOPTION OF THE RULES THAT REGULATES DISCIPLINE AND  
INCAPACITY IN THE PUBLIC SERVICE**

The above-mentioned has reference

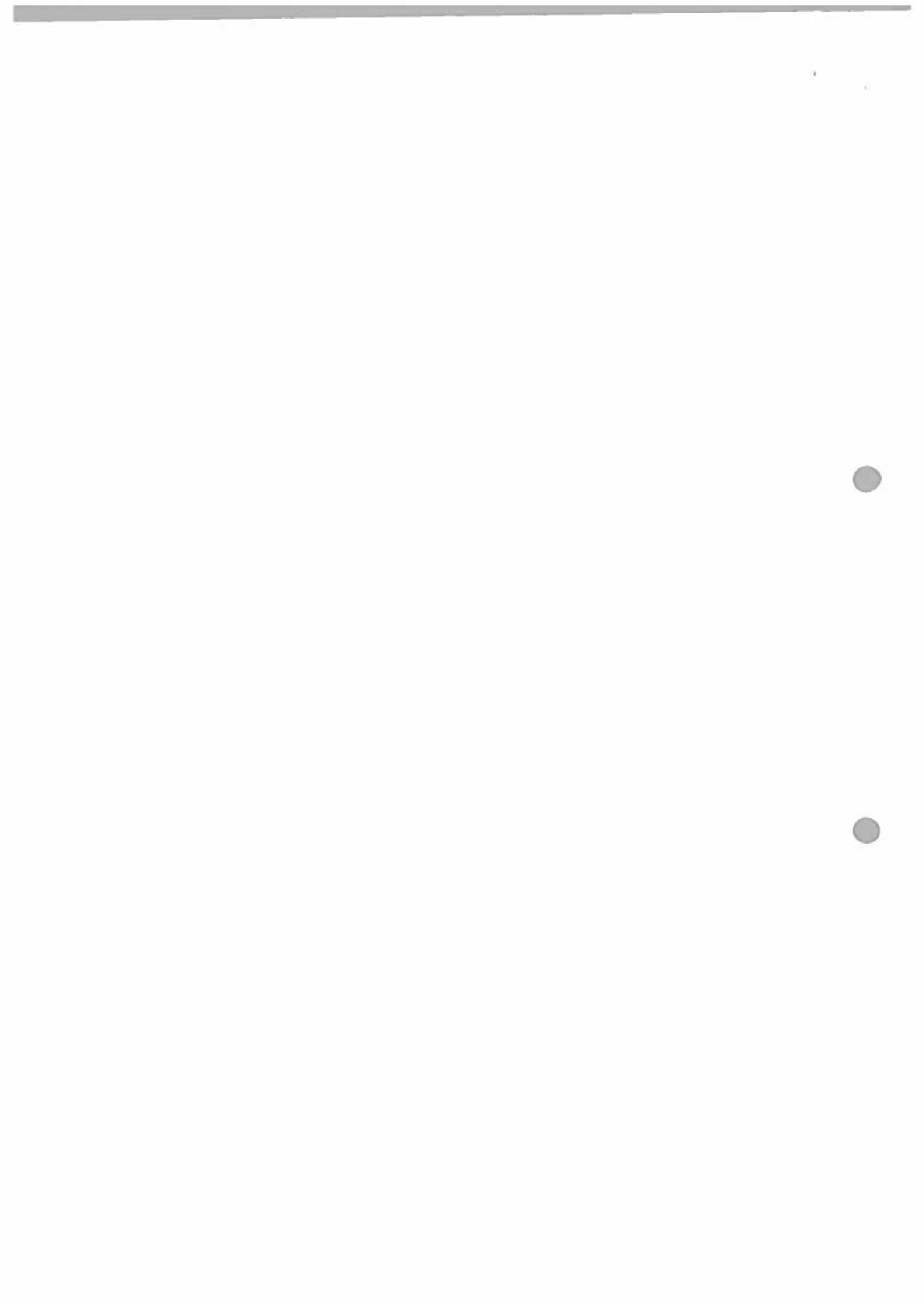
This circular wishes to inform all staff that the department has adopted the Disciplinary Code and Procedures for the Public Service as contained in PSCBC Resolution 1 of 2003, the Code of Conduct as contained in Chapter 2 of the Public Service Regulations, and furthermore as contained in the Guide on Disciplinary and Incapacity Matters.

This measure is to deal with the effective management of employee's conduct, discipline and incapacity. This is effective as from 1 April 2012.

  
**HEAD OF DEPARTMENT**  
DATE: 01 / 04 / 2012

"Working together we can do more"







PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL

## RESOLUTION NO 1 OF 2003

### AMENDMENTS TO RESOLUTION 2 OF 1999: DISCIPLINARY CODE AND PROCEDURES FOR THE PUBLIC SERVICE

1. SCOPE:
  - 1.1 This agreement applies to the employer and employees –
    - (a) who are employed by the State; and
    - (b) who fall within the registered scope of the PSCBC.
  - 1.2 This agreement does not apply to the employer and employees covered by a disciplinary code and procedure –
    - (a) concluded in a sectoral council and approved by the PSCBC; or
    - (b) contained in legislation or regulations.
2. NOTING that the Disciplinary Code and Procedures for the Public Service has been in existence since 1 July 1999 and that there is a necessity to streamline the Code, remove certain ambiguities and effect certain technical changes.

k. T.M.  
*[Handwritten signatures]*

Lytelton Office Village  
260 Basden Ave,  
Lytelton, Centurion,  
Pretoria, 0176  
P.O. Box 3123  
Lytelton South, 0176  
Tel: (012) 644-8100  
Fax: (012) 664-8950  
E-mail: [pscbc@mweb.co.za](mailto:pscbc@mweb.co.za)  
Website: <http://www.pscbc.org.za>

All correspondence must be addressed to the Secretary of Council

3. THEREFORE the parties resolve –

- Schedule 1
- (a) to amend Resolution 2 of 1999 as indicated in the attached ~~Annexure A~~ ~~ure A~~;
- (b) that the provisions of the amended disciplinary procedure remain applicable to members of the Senior Management Service of the public service until such time as the Minister for the Public Service and Administration issues a directive to cover the disciplinary matters of this group of employees; and
- (c) that for purposes of paragraph 3(b), if the employee charged with misconduct is a head of department –
- (i) the presiding officer must be an executing authority or another person with appropriate knowledge designated by the Cabinet or the Provincial Executive Council.
  - (ii) the relevant Premier (in respect of a provincial head of department) or the President (in respect of a head of a national department or organisational component) must consider the appeal. If either the Premier or President is involved in the initial disciplinary proceedings against the head of department, the appeal must be dealt with by a panelist of the relevant sectoral bargaining council in the public service.
  - (iii) the definition of "employer" means the relevant executing authority.

4. DISPUTE RESOLUTION

Any dispute arising from the provisions of this resolution will be dealt with in terms of the PSCBC dispute resolution procedure, unless the Act provides otherwise.

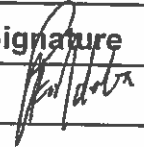
5. IMPLEMENTATION

This agreement comes into effect from the date of signing.


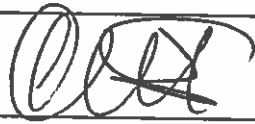
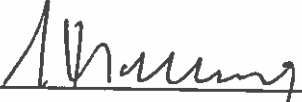

k. T.M.

THIS DONE AND SIGNED AT Centurion OF THIS  
28 DAY OF February 2003.

## ON BEHALF OF THE EMPLOYER PARTY

	Name	Signature
State as Employer	KHUMBULA NDABA	

## ON BEHALF OF TRADE UNION PARTIES

Trade Union	Name	Signature
DENOSA		
HOSPERSA		
NAPTOSA	H. HENDRICKS	
NUPSAW		
NEHAWU	THEMBEKILE SIHO	
POPCRU		
PSA	ANN DE CLERCK	
SADTU	T. W. NXESI	
SAPU		

SCHEDULE 1

DISCIPLINARY CODE AND PROCEDURES

1. Parties to the PSCBC adopt the attached Disciplinary Code and Procedures for the public service.

2. Date of implementation

This agreement comes into effect on the date on which *the Public Service Laws Amendment Act 1998 (Act No 86 of 1998)* comes into effect and replaces in total the provisions of the deemed collective agreement referred to in section 18(b) of the Act.

T.M.  
M  
H

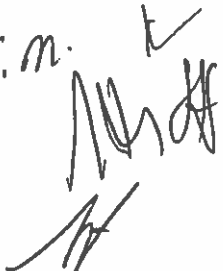
**DISCIPLINARY CODE AND PROCEDURES  
FOR THE PUBLIC SERVICE**

**1. PURPOSE AND SCOPE**

- 1 The purpose of this Code and Procedures is:
- 1.1 to support constructive labour relations in the public service;
  - 1.2 to promote mutual respect between employees and between employees and employer;
  - 1.3 to ensure that managers and employees share a common understanding of misconduct and discipline;
  - 1.4 to promote acceptable conduct;
  - 1.5 to provide employees and the employer with a quick and easy reference for the application of discipline;
  - 1.6 to avert and correct unacceptable conduct; and
  - 1.7 to prevent arbitrary or discriminatory actions by managers toward employees.

**2. PRINCIPLES**

- 2 The following principles inform the Code and Procedure and must inform any decision to discipline an employee.
- 2.1 Discipline is a corrective measure and not a punitive one.
  - 2.2 Discipline must be applied in a prompt, fair, consistent and progressive manner.
  - 2.3 Discipline is a management function.
  - 2.4 A disciplinary code is necessary for the efficient delivery of service and the fair treatment of public servants, and ensures that employees:
    - a. have a fair hearing in a formal or informal setting;
    - b. are timeously informed of allegations of misconduct made against them;
    - c. receive written reasons for a decision taken; and
    - d. have the right to appeal against any decision.
  - 2.5 As far as possible, disciplinary procedures shall take place in the place of work and be understandable to all employees.

T.M.  


- 2.6 If an employee commits misconduct that is also a criminal offence, the criminal procedure and the disciplinary procedure will continue as separate and different proceedings.
- 2.7 Disciplinary proceedings do not replace or seek to imitate court proceedings.
- 2.8 The Disciplinary Code and Procedures constitutes a framework within which departmental policies may be developed to address appropriate circumstances, provided such policies do not deviate from the provisions of the framework.

### 3. SCOPE OF APPLICATION

This Code and Procedure apply to the employer and all employees falling within the registered scope of the Public Service Co-ordinating Bargaining Council. It does not, however, apply to the employer and employees covered by a disciplinary code and procedure,

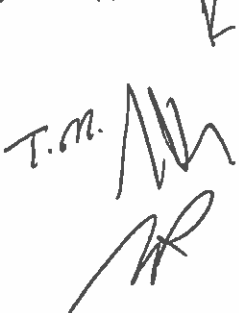
- 3.1 concluded in a sectoral council and approved by the PSCBC to ensure uniformity of procedures across the public service, or
- 3.2 contained in legislation or regulations.

### 4. CODES, RULES AND STANDARDS

- 4.1 The Code of Good Practice contained in Schedule 8 of the Labour Relations Act, 1995, insofar as it relates to discipline, constitutes part of this Code and Procedure.
- 4.2 Employee conduct that may warrant a disciplinary action is listed in Annexure A. This list is not exhaustive. Management may discipline an employee in respect of other conduct, if the employee knew, or ought to have known, that the conduct constituted grounds for disciplinary action.
- 4.3 In applying Annexure A, management must assess the seriousness of the alleged misconduct by considering:
  - a. the actual or potential impact of the alleged misconduct on the work of the public service, the employee's component and colleagues, and the public;
  - b. the nature of the employee's work and responsibilities; and
  - c. the circumstances in which the alleged misconduct took place.

### 5. PROCEDURES: DISCIPLINARY ACTIONS

- 5.1 **Corrective counselling.** In cases where the seriousness of the misconduct warrants counselling, the manager of the employee must:
  - a. bring the misconduct to the employee's attention;
  - b. determine the reasons for the misconduct and give the employee an opportunity to respond to the allegations;
  - c. seek to get agreement on how to remedy the conduct; and
  - d. take steps to implement the agreed course of action.

T.M.  K



- 5.2 **Verbal warnings.** In cases where the seriousness of the misconduct warrants a verbal warning, the manager of the employee may give a verbal warning. The manager must inform the employee that further misconduct may result in more serious disciplinary action, and record the warning.
- 5.3 **Written warnings.** In cases where the seriousness of the misconduct warrants a written warning, the manager may give the employee a written warning. The following provisions apply to written warnings:
- a. The written warning may use the form of Annexure B.
  - b. The manager must give a copy of the written warning to the employee, who must sign receipt of it. If the employee refuses to sign receipt, the manager must hand the warning to the employee in the presence of another employee, and sign in confirmation that the written warning was conveyed to the employee.
  - c. The written warning must be filed in the employee's personal file.
  - d. A written warning remains valid for six months. At the expiry of the six months, the written warning must be removed from the employee's personal file and destroyed.
  - e. If during the six-month period, the employee is subject to disciplinary action on a same or related offence, the written warning may be taken into account in deciding an appropriate sanction.
- 5.4 **Final written warnings.** In cases where the seriousness of the misconduct warrants a final written warning, the manager may give the employee a final written warning. The following provisions apply to final written warnings:
- a. The final written warning may use the form of Annexure C.
  - b. The manager must give a copy of the final written warning to the employee, who must sign receipt of it. If the employee refuses to sign receipt, the manager must hand the warning to the employee in the presence of another employee, and sign in confirmation that the final written warning was conveyed to the employee.
  - c. The final written warning must be filed in the employee's personal file.
  - d. A final written warning remains valid for six months. At the expiry of the six months, the final written warning must be removed from the employee's personal file and destroyed.
  - e. If during the six-month period, the employee is subject to disciplinary action on a same or related offence, the final written warning may be taken into account in deciding an appropriate sanction.
- 5.5 For less serious forms of misconduct, no formal enquiry shall be held.
- 5.6 For the purpose of determining appropriate disciplinary actions, valid warnings for similar offences by the employee shall be taken into account.

T.M. <sup>K</sup> ~~dt~~  


## 6. SERIOUS MISCONDUCT

If the alleged misconduct justifies a more serious form of disciplinary action than provided in paragraph 5, the employer may initiate a disciplinary enquiry. The employer must appoint an employee as a representative, who as far as possible should be the manager for the employee, to initiate the enquiry.


## 7. DISCIPLINARY ENQUIRY

### 7.1 Notice of enquiry

- a. The employee must be given notice at least five working days before the date of the hearing.
- b. The employee must sign receipt of the notice. If the employee refuses to sign receipt of the notice, it must be given to the employee in the presence of a fellow employee who shall sign in confirmation that the notice was conveyed to the employee.
- c. The written notice of the disciplinary meeting must use the form of Annexure D, and provide:
  - i. a description of the allegations of misconduct and the main evidence on which the employer will rely;
  - ii. details of the time, place and venue of the hearing; and
  - iii. information on the rights of the employee to representation by a fellow employee or a representative or official of a recognised trade union, and to bring witnesses to the hearing.

### 7.2 Precautionary suspension

- a. The employer may suspend an employee on full pay or transfer the employee if
  - i. the employee is alleged to have committed a serious offence; and
  - ii. the employer believes that the presence of an employee at the workplace might jeopardise any investigation into the alleged misconduct, or endanger the well being or safety of any person or state property.
- b. A suspension of this kind is a precautionary measure that does not constitute a judgement, and must be on full pay.
- c. If an employee is suspended or transferred as a precautionary measure, the employer must hold a disciplinary hearing within a month or 60 days, depending on the complexity of the matter and the length of the investigation. The chair of the hearing must then decide on any further postponement.

T.M. 

### 7.3 Conducting the disciplinary hearing

- a. The disciplinary hearing must be held within ten working days after the notice referred to in paragraph 7.1(a) is delivered to the employee.
- b. The chair of the hearing must be appointed by the employer and be an employee on a higher grade than the representative of the employer.
- c. The employer and the employee charged with misconduct may agree that the disciplinary hearing will be chaired by an arbitrator from the relevant sectoral bargaining council appointed by the council. The decision of the arbitrator will be final and binding and only open to review in terms of the *Labour Relations Act, 1995*. All the provisions applicable to disciplinary hearings in terms of this Code will apply for purposes of these hearings. The employer will be responsible to pay the costs of the arbitrator.
- d. If the employee wishes, she or he may be represented in the hearing by a fellow employee or a representative of a recognised trade union.
- e. If necessary, an interpreter may attend the hearing.
- f. In a disciplinary hearing, neither the employer nor the employee may be represented by a legal practitioner, unless –
  - (i) the employee is a legal practitioner or the representative of the employer is a legal practitioner and the direct supervisor of the employee charged with misconduct; or
  - (ii) the disciplinary hearing is conducted in terms of paragraph 7.3.c.

For the purposes of this agreement, a legal practitioner is defined as a person who is admitted to practice as an advocate or an attorney in South Africa.

- g. If the employee fails to attend the hearing and the chair concludes that the employee did not have a valid reason, the hearing may continue in the employee's absence.
- h. The chair must keep a record of the notice of the disciplinary hearing and the proceedings of the meeting.
- i. The chair will read the notice for the record and start the hearing.
- j. The representative of the employer will lead evidence on the conduct giving rise to the hearing. The employee or the employee's representative may question any witness introduced by the representative of the employer.
- k. The employee will be given an opportunity to lead evidence. The representative of the employer may question the witnesses.

TM

K  
M  
R

- l. The chair may ask any witness questions for clarification.
- m. If the chair decides the employee has committed misconduct, the chair must inform the employee of the finding and the reasons for it.
- n. Before deciding on a sanction, the chair must give the employee an opportunity to present relevant circumstances in mitigation. The representative of the employer may also present aggravating circumstances.
- o. The chair must communicate the final outcome of the hearing to the employee within five working days after the conclusion of the disciplinary enquiry, and the outcome must be recorded on the employee's personal file.

#### 7.4 Sanctions

- a. If the chair finds an employee has committed misconduct, the chair must pronounce a sanction (within the period referred to in clause 7.3.o), depending on the nature of the case and the seriousness of the misconduct, the employee's previous record and any mitigating or aggravating circumstances. Sanctions consist of:
  - i. counselling;
  - ii. a written warning valid for six months;
  - iii. a final written warning valid for six months;
  - iv. suspension without pay, for no longer than three months;
  - v. demotion;
  - vi. a combination of the above; or
  - vii. dismissal.
- b. If an employee is demoted, she/he may only, after a year, apply for promotion to a higher advertised post without prejudice.
- c. The employer shall not implement the sanction during an appeal by the employee.

#### 8. Appeal

- 8.1 An employee may appeal a finding or sanction by completing Annexure E.
- 8.2 The employee must, within five working days of the receiving notice of the final outcome of a hearing or other disciplinary procedure, submit the appeal form to her or his executing authority, or to her or his manager, who shall then forward it to the appeal authority.

T.M.  
K.  
M.A.  
K.

- 8.3 The appeal authority may, on good cause shown, condone the late lodging of an appeal.
- 8.4 The appeal authority, who shall consider the appeal, shall be:
- a. the executing authority of the employee, or
  - b. an employee appointed by the executing authority, who
    - i. was not involved in the decision to institute the disciplinary proceeding, and
    - ii. who has a higher grade than the chair of the disciplinary hearing.
- 8.5 If the person referred to in paragraph 8.4 requires a hearing, she or he shall notify the employee of the date and place.
- 8.6 The appeal authority may
- a. uphold the appeal, and/or
  - b. reduce the sanction to any lesser sanction allowed in terms of clause 7.4.a of the Code, or
  - c. confirm the outcome of the disciplinary proceeding.
- 8.7 The employer shall immediately implement the decision of the appeal authority. Where the appeal authority decides to reduce the sanction or to confirm the outcome of the disciplinary proceedings (e.g. dismissal cases), the sanctions will be implemented by the employer from a current date.
- 8.8 Departments must finalise appeals within 30 days, failing which, in cases where the employee is on precautionary suspension, he/she must resume duties immediately and await the outcome of the appeal while on duty.

**Note:** The employee retains the right to utilise dispute-settlement mechanisms provided under the Labour Relations Act.

## DEFINITIONS

"employer" means the head of department or any member of his/her department designated to perform the specific action, unless the context indicates otherwise.

"fellow employee" means an employee from the same office/institution than the employee charged with misconduct., except full-time shop stewards.

"recognised trade union" means all the unions admitted to the PSCBC as well as any other union that enjoys organisational rights from a particular department (the latter union is recognised for the particular department only).

T.M.  
K.  
M.  
H.

## ANNEXURE A

### ACTS OF MISCONDUCT

*An employee will be guilty of misconduct if she or he, among other things (this list is not exhaustive):*

Fails to comply with, or contravenes an Act, regulation or legal obligation.

Wilfully or negligently mismanages the finances of the State.

Without permission possesses or wrongfully uses the property of the State, another employees and/or a visitor.

Wilfully, intentionally or negligently damages and or causes loss of state property.

Endangers the lives of self or others by disregarding safety rules or regulations.

Prejudices the administration, discipline or efficiency of a department, office or institution of the State.

Misuses his or her position in the public service to promote or to prejudice the interest of any political party.

Steals, bribes or commits fraud.

Accepts any compensation in cash or otherwise from a member of the public or another employee for performing her or his duties without written approval from the department.

Fails to carry out a lawful order or routine instruction without just or reasonable cause.

Absents or repeatedly absents him/herself from work without reason or permission.

Commits an act of sexual harassment.

Discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution.

Performs poorly or inadequately for reasons other than incapacity.

Without written approval from her or his department, performs work for compensation in a private capacity for another person or organisation either during or outside working hours.

Without authorisation, sleeps on duty.

While on duty, is under the influence of an intoxicating, illegal, unauthorised, habit-forming and/or stupefying drug, including alcohol.

While on duty, conducts herself or himself in an improper, disgraceful and unacceptable manner.

Contravenes any prescribed Code of Conduct for the public service.

Assaults, or attempts or threatens to assault, another employee or person while on duty.

Incites other personnel to unprocedural and unlawful conduct.

Displays disrespect towards others in the workplace or demonstrates abusive or insolent behaviour.

Intimidates or victimises fellow employees.

Prevents other employees from belonging to any trade union or body.

Operates any money lending scheme for employees for own benefit during working hours or from the premises of the public service.

Carries or keeps firearms or other dangerous weapons on state premises, without the written authorisation of the employer.

Refuses to obey security regulations.

Gives false statements or evidence in the execution of his or her duties.

Falsifies records or any other documentation.

Participates in unprocedural, unprotected and/or unlawful industrial action.

Commits a common law or statutory offence while on state premises.

T.M.

K  
M  
H  
off  
R

WRITTEN WARNING

[DATE]

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

This is a written warning in terms of the disciplinary procedure. Should you engage in further misconduct, the written warning may be taken into account in determining a more serious sanction.

The written warning will be placed in your personal file and will remain valid for a period of six months from the date of the written warning. After six months the written warning will be removed from your personal file and be destroyed.

The nature of the misconduct is;

If you object the warning, you may direct an appeal to [name] within five working days.

The nature of the misconduct is:

SIGNATURE OF EMPLOYEE

DATE

SIGNATURE OF MANAGER

DATE

SIGNATURE OF WITNESS (If applicable)

DATE

*RM*  
*FM.*      *K*  
*AM* *df*

ANNEXURE C

FINAL WRITTEN WARNING

[DATE]

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

This is a final written warning in terms of the disciplinary procedure. Should you engage in further transgressions, it could lead to formal misconduct proceedings being instituted against you.

This final written warning will be placed in your personal file and will remain valid for a period of six months from the date of the written warning. After six months the written warning will be removed from your personal file and be destroyed.

The nature of the misconduct is;

If you object the warning, you may direct an appeal to [name] within five working days.

SIGNATURE OF EMPLOYEE

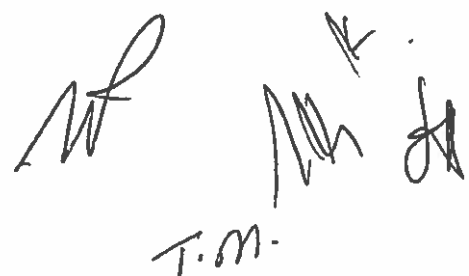
DATE

SIGNATURE OF REPRESENTATIVE OF THE EMPLOYER

DATE

SIGNATURE OF WITNESS (If applicable)

DATE

Handwritten signatures and initials. On the left is a large, stylized signature. To its right are two smaller signatures, one above the other. Below the top signature are the initials 'T.M.'.



ANNEXURE D

**NOTICE OF DISCIPLINARY MEETING**

[DATE]

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

You are hereby given notice to attend a disciplinary hearing in terms of clauses 6 and 7 of the Disciplinary Code.

The alleged misconduct and the available evidence is:

\_\_\_\_\_  
\_\_\_\_\_

[A DETAILED DESCRIPTION OF MISCONDUCT MAY BE ATTACHED].

The meeting will be held at \_\_\_\_\_ [PLACE] on \_\_\_\_\_ [DATE] at \_\_\_\_\_ [TIME]. If you do not attend and cannot give reasonable grounds for failing to attend, the meeting will be held in your absence.

A fellow employee or a representative or official of a recognised union may represent you.

You may give evidence to the hearing in the form of documents or through witnesses. You will be entitled to question any witness introduced by the department.

If the enquiry holds that you are guilty of misconduct, you may present any relevant circumstances in determining the disciplinary sanction.

SIGNATURE OF EMPLOYEE

DATE

SIGNATURE OF REPRESENTATIVE OF THE EMPLOYER

DATE

SIGNATURE OF WITNESS (If applicable)

DATE

*[Handwritten signatures and initials]*  
K.  
T.M.

**ANNEXURE E  
NOTICE OF APPEAL**

[DATE]

[NAME OF APPEAL AUTHORITY]

I, \_\_\_\_\_, [NAME OF EMPLOYEE] am hereby appealing against a disciplinary action imposed on \_\_\_\_\_ [DATE] at \_\_\_\_\_ [PLACE].

I attach a copy of the notice of the disciplinary enquiry and/or the written warning. [THE APPEAL REQUEST IS NOT VALID UNLESS THESE DOCUMENTS ARE ATTACHED]

My reasons for appeal are:


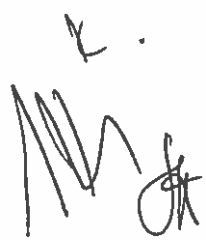
The desired outcome of the appeal is:

I wish/do not wish [CHOOSE ONE] to provide additional evidence not available at the time of the disciplinary proceeding.

SIGNATURE OF EMPLOYEE

DATE

[PERSONAL DETAILS OF THE EMPLOYEE]

  
  
T.M.



**dhsps&l**

Department:  
Human Settlements, Public Safety & Liaison  
North West Provincial Government  
REPUBLIC OF SOUTH AFRICA

3366 Besemmer str Telkom building  
Industrial site Mafikeng, 2745  
NWDC cnr. . University Drive  
Private Bag X 2145, Mmabatho, 2735  
Tel: +27 (18) 391 0400/388 2461/387  
6000

**HUMAN RESOURCE MANAGEMENT  
PUBLIC SAFETY & LIAISON BRANCH**

Safety House 31-34 Molopo Road  
Mafikeng, 2745  
P/Bag X 19 Mmabatho 2735  
Tel: +27 (18) 381 9104/9132  
Fax: +27 (18) 381 9123

**TO: ALL STAFF**

**FROM: THE ACT. HEAD OF DEPARTMENT  
MR. B. MAHLAKOLENG**

**CIRCULAR ON THE ADOPTION OF THE RULES THAT REGULATES PRECAUTIONARY  
SUSPENSION IN THE PUBLIC SERVICE**

The above-mentioned has reference

This circular wishes to inform all staff that the department has adopted section 7.2 of the Disciplinary Code and Procedures for the Public Service as contained in PSCBC Resolution 1 of 2003 and furthermore as contained in section 4 of the Guide on Disciplinary and Incapacity Matters.

This measure is to deal with the effective management of precautionary suspensions and is effective as from 1 April 2012.

  
**HEAD OF DEPARTMENT**

**DATE: 01 / 09 / 2012**

"Working together we can do more"



10/10/10





**dhsp&l**

Department:  
Human Settlements, Public Safety & Liaison  
North West Provincial Government  
REPUBLIC OF SOUTH AFRICA

3366 Besemmer str Telkom building  
Industrial site Mafikeng, 2745  
NWDC cnr. University Drive  
Private Bag X 2145, Mmabatho, 2735  
Tel: +27 (18) 391 0400/388 2461/387  
6000

**HUMAN RESOURCE MANAGEMENT  
PUBLIC SAFETY & LIAISON BRANCH**

Safety House 31-34 Molopo Road  
Mafikeng, 2745  
P/Bag X 19 Mmabatho 2735  
Tel: +27 (18) 381 9104/9132  
Fax: +27 (18) 381 8123

**TO: ALL STAFF**

**FROM: THE ACT. HEAD OF DEPARTMENT  
MR. B. MAHLAKOLENG**

**CIRCULAR ON THE ADOPTION OF THE RULES THAT REGULATES DISCIPLINE AND  
INCAPACITY IN THE PUBLIC SERVICE**

The above-mentioned has reference

This circular wishes to inform all staff that the department has adopted the Disciplinary Code and Procedures for the Public Service as contained in PSCBC Resolution 1 of 2003, the Code of Conduct as contained in Chapter 2 of the Public Service Regulations, and furthermore as contained in the Guide on Disciplinary and Incapacity Matters.

This measure is to deal with the effective management of employee's conduct, discipline and incapacity. This is effective as from 1 April 2012.

  
**HEAD OF DEPARTMENT**

**DATE: 01 / 04 / 2012**

**"Working together we can do more"**





**GUIDE ON DISCIPLINARY AND  
INCAPACITY MATTERS**

**GUIDE ON DISCIPLINARY  
AND INCAPACITY  
MATTERS**

---

**DEPARTMENT OF PUBLIC SERVICE  
AND ADMINISTRATION**



## Table of Contents

---

<b>INTRODUCTION</b>	<b>Page</b> 4
<b>PART A: DISCIPLINARY MATTERS</b>	<b>5</b>
Key points	6
What disciplinary action to take	7
Progressive disciplinary action	8 - 9
Disciplinary enquiry	10 – 11
Flow diagram: disciplinary procedure	12 – 13
Annexures: examples of letters in terms of code	14 – 20
<b>PART B: INCAPACITY (POOR PERFORMANCE)</b>	<b>21</b>
Key points	22
Decision to utilise code	23
Procedure to be followed	24-25
Flow diagram: incapacity procedure	26 – 27
Annexures: examples of letters in terms of code	28 - 30
<b>PART C: INCAPACITY (ILL-HEALTH OR INJURY)</b>	<b>31</b>
Key points	32
When to utilise code	33
Procedure to be followed	34 – 35
Flow diagram: ill-health procedure	36 – 37
Annexures: examples of letters in terms of code	38 - 40

## INTRODUCTION

Discipline is one of the least enjoyable, but one of the most critical aspects of labour relations. It is essential for effective service delivery to have a disciplined workforce. Equally important for service delivery is the ability to effectively deal with incapacity and ill-health problems in the work situation.

Discipline in the public service has been transformed with effect from 1 July 1999. The transformation was done within the ambit of the new management framework that is based on the devolution of power to national and provincial departments.

The transformation culminated in the parties to the Public Service Co-ordinating Bargaining Council (PSCBC) concluding and signing an agreement on a new disciplinary code and procedures for the public service (Resolution 2/99). The agreement was implemented on 1 July 1999.

As part of the transformation process, the PSCBC also concluded two agreements relating to incapacity, namely the Incapacity Code and Procedures for the Public Service (Resolution 10/99) and the Incapacity Code and Procedures in respect of Ill Health (Resolution 12/99). These two agreements became effective on 1 July and 3 December 1999 respectively.

The Codes, to a large extent, address problems that were associated with the application of disciplinary and incapacity measures under the *Public Service Act*, 1994.

The new Codes introduce a shift away from statutory prescription to collective agreement. This lends legitimacy to the Codes and ensures co-ownership between the social partners.

**PART A: DISCIPLINARY  
MATTERS**

## 1

**KEY POINTS: DISCIPLINE**

In applying discipline you must always keep the following in mind:

**Adherence to principles and procedures**

- The principles of the Code
- Discipline should be applied as soon as you become aware of the infraction
- Do not discipline in anger
- Never dismiss an employee before a disciplinary enquiry has been held
- In applying discipline, all actions short of dismissal should be explored
- Gather all the facts before deciding to institute disciplinary action
- Follow the correct procedure and make sure that a proper reason exists for taking the disciplinary action

**Trade union representatives**

- If the employee to be disciplined is a union representative, follow the requirements expressed in item 4.2 of Schedule 8 of the Labour Relations Act, 1995 (LRA)

**Natural justice**

- Always adhere to the rules of natural justice, meaning –
  - that before taking a decision you must fully inform the employee of the case against him or her and allow the employee a proper opportunity to present his or her case
  - that if you have a personal interest in the outcome of the matter, you should not chair the proceedings (only applicable to disciplinary enquiries)
  - that justice must not only be done but must manifestly be seen to be done particularly in dealing with hearings (there should be no bias from your side)

# 2

## WHAT DISCIPLINARY ACTION TO TAKE

- Transgressions**
- Before instituting disciplinary action, you must be convinced that a transgression took place. A list of transgressions appears in the Annexure to the Disciplinary Code. The list is not exhaustive. Employees may, therefore, also be disciplined for other conduct if they know, or ought to have known that the conduct constitutes grounds for disciplinary action.
- Becoming aware of transgressions**
- You will become aware of a transgression by an employee in one of the following ways:
    - By yourself (seeing, hearing, etc)
    - Through an allegation of misconduct by somebody else
- Options of dealing with transgressions**
- In terms of the Code, you have the following options available to deal with the alleged transgression:
    - Counselling the employee
    - Utilising a system of warnings  Progressive discipline
    - Holding a disciplinary enquiry
- Deciding on option**
- In deciding which option to use, you are advised to –
    - Investigate the allegations of misconduct
    - Assess the seriousness of the alleged misconduct by considering -
      - the actual or potential impact of the alleged misconduct on the work of the public service, the employee's component and colleagues, and the public
      - the nature of the employee's work and responsibilities
      - the circumstances in which the alleged misconduct took place

# 3

## PROGRESSIVE DISCIPLINARY ACTION

### Progressive discipline

- You should not rush into a disciplinary enquiry every time an employee transgresses. Progressive disciplinary action may yield the desired result and have the added advantage of building harmonious relationships. In this regard, you can use any of the following:
  - Corrective counselling
  - Verbal warnings
  - Written warnings
  - Final written warnings

### Not mechanistic application

- The corrective steps may be applied progressively, but should not be applied mechanistically. In other words, the steps indicated above, do not necessarily have to build on one another. Depending on the seriousness of the transgression (which you would have to judge) you, for instance, might employ a written warning or a final written warning in the first instance.

### *Corrective Counselling*

#### When to apply

- The purpose of corrective counselling is to probe causes of misconduct together with the employee and to jointly identify means of correcting the unacceptable conduct. It is normally applied in cases of a less serious nature where there is room for change and improvement and where a trend has developed (e.g. late coming). It would generally not be used in a once-off situation.

#### Counselling steps

- If you decide to counsel an employee, the following steps are recommended:
  - Invite the employee to your office. Inform the employee timeously what the meeting is about
  - Ensure absolute privacy for the meeting and ensure that there are no interruptions
  - Draw the employee's attention to the alleged misconduct and ensure that you both agree that it indeed occurred or is occurring
  - Determine the reasons for the misconduct by asking the employee to explain his or her conduct
  - Request the employee to come up with ways of correcting the behaviour
  - Offer your suggestions and come to a consensus position on how to deal with the untoward conduct
  - After agreeing on how to correct the conduct, agree on each party's role and a return date for assessment of progress
  - Keep a note of the meeting and especially the agreement reached of addressing the employee's conduct
  - On the return date, check on the progress made and whether the employee co-operated or not. If the employee did not co-operate as agreed, then you should consider further disciplinary steps like warnings

#### *Notes:*

- 1) If the employee or the union representative refuses to acknowledge that the transgression has taken or is taking place, terminate the counselling meeting and consider which other disciplinary steps to take.
- 2) If, during counselling, it transpires that the transgression is of a more serious nature than initially thought, terminate the meeting and apply one of the other disciplinary steps available.

## Warnings

- When to apply**
- If you are of the opinion that the transgression –
    - requires more serious action than mere counselling
    - BUT
    - is less serious than a transgression for which you want to set up a disciplinary enquiry,
 then you should consider utilising warnings.
- Steps**
- The following steps are recommended when issuing a warning:
    - Invite the employee concerned (and his/her representative if required) to a meeting by way of a written notice (see Annexure A).
    - Hold the meeting in private. Keep the meeting as informal as possible
    - Recap the alleged misconduct and allow him/her the opportunity to state his/her side of the story
    - Consider the employee's response and decide on the sanction to be applied
    - Convey your decision to the employee at the conclusion of the meeting or afterwards (if you need more time to consider). See Annexures B and C for examples of a written warning and a final written warning
- Severity of warnings**
- A verbal warning is the least severe and a final written warning the most severe form of warning.
  - The type of warning to be issued will be influenced by the alleged misconduct and the employee's response to the allegation. Take into account other valid warnings for the same or similar offence. These will act as aggravating factors in determining the type of warning to be issued.
- Validity of warnings**
- Warnings remain valid for the following periods:
 

▪ Verbal warning	:	:	three months
▪ Written warning	:	:	six months
▪ Final written warning	:	:	six months
- Placement and removal of warnings**
- Written warnings must be filed on the employee's personal file and be removed and destroyed at the expiry of the period.

### Notes:

- 1) Allow the employee sufficient time to prepare for the meeting.
- 2) If the employee fails or refuses to attend the meeting without a valid reason, you should go ahead and issue the warning that you regard as appropriate.
- 3) If the employee fails to attend the meeting, but sends a representative, you can continue with the meeting provided the representative has a written mandate from the employee. If not, you should continue as indicated in 2. above.
- 4) Do not have the warning typed up before the meeting, because it would mean that you have already decided the outcome before hearing the other side.
- 5) Keep a record of warnings issued (date issued, transgression and type of warning). Although actual warnings should be removed from employee's personal file at expiry of validity (not to be used again), the record may be used if the employer in future commits a same or similar offence and then claims to be a first offender.

# 4 DISCIPLINARY ENQUIRY

- When to apply**
- To determine when to opt for a disciplinary enquiry, the following questions should be asked.
    - Is the transgression of such a serious nature that counselling or the issuing of a warning will not suffice?
    - Does the transgression constitute a material breach of the employment relationship?
    - Has the employee repeated a transgression or committed a related transgression during the validity of a warning, especially a final written warning?
    - Could dismissal be an appropriate sanction?
- Steps**
- Once a decision has been made that a disciplinary enquiry is to be held, the following must be done:
    - Appoint a representative of the employer who should, as far as possible, be the manager of the employee (but must be an officer in the public service)
    - Conduct a thorough investigation into the allegation (advisable that it be conducted by the same person that will represent the employer at the hearing)
    - Ensure that there is enough evidence to sustain the allegation before giving notice to the employee of the disciplinary hearing
    - Appoint a chairperson to conduct the hearing (to be an officer of a higher grade than the representative of the employer, except in the case of a head of department where it could also be a person from outside the public service, should Cabinet or the Provincial EXCO, whichever is applicable, approve)
    - Inform the employee of the disciplinary hearing at least five working days before it is to take place (see example at Annexure D)
    - Hold the hearing within 10 working days of having notified the employee of the pending disciplinary procedure
- Suspension**
- An employee may be suspended for purposes of a disciplinary enquiry. A suspension may take any of the following forms:
    - Suspension on full pay
    - Transfer of the employee (to another section/workplace)
  - To suspend an employee, both the following elements have to be prevalent:
    - The employee must have allegedly committed a serious offence
    - The presence of the employee at the workplace might jeopardise any investigation into the alleged misconduct or it might endanger the well-being or safety of any person or state property
  - Attached as Annexures E and F are examples of a notification to an employee to attend a meeting where his/her possible suspension will be considered as well as a letter of suspension
  - Once an employee has been suspended, the disciplinary hearing **must** be held within a month. Only the chairperson of the hearing may decide (following the presentation of arguments by the parties involved) to postpone the hearing, which will entail continued suspension



**Decision and sanction**

- At the conclusion of the hearing, the chairperson will make a finding of guilty or not guilty. If the employee is found guilty, the chairperson may pronounce any of the following sanctions:
  - Counselling
  - A written warning
  - A final written warning
  - Suspension without pay, for no longer than three months
  - Demotion
  - A combination of the above
  - Dismissal
- The sanction of suspension without pay and demotion may only be applied as an alternative to dismissal. It also requires the agreement of the employee. If an agreement cannot be obtained, dismissal will follow.
- The sanction must be conveyed to the employee concerned within five working days of the hearing.

**Appeal**

- An employee found guilty of misconduct may appeal the finding or the sanction or both. The following provisions pertain to appeals:
  - No sanction may be implemented if an employee appeals
  - The executing authority is the appeal authority for all employees below the level of head of department
  - The executing authority may appoint an officer in the public service to act as appeal authority on his/her behalf provided -
    - the employee was not involved in the decision to institute the disciplinary proceedings
    - the employee has a higher grade than the chair of the disciplinary hearing
  - For the heads of provincial departments the relevant Premier acts as appeal authority, whilst for the heads of national departments it is the President
  - Employees must appeal within five working days of receiving notice of the final outcome of the hearing from the chairperson
  - The appeal will normally be considered on documents only, although there could be a rehearing if there was gross procedural irregularity
  - The appeal authority may decide to -
    - uphold the appeal,
    - reduce the sanction
    - confirm the outcome of the disciplinary proceeding
  - The decision of the appeal authority shall be implemented
  - The employee still has a right to declare a dispute if he/she is not satisfied with the outcome of the appeal process – disputes are to be dealt with through the dispute resolution mechanisms of the relevant sectoral bargaining council
- An example of a notice of appeal appears as **Annexure G**

**Notes:**

- 1) Departments should, by way of a departmental policy, indicate who should decide on the appointment of the representative of the employer and the chairperson for purposes of disciplinary hearings
- 2) Employees may also appeal against written and final written warnings issued in terms of the progressive discipline system

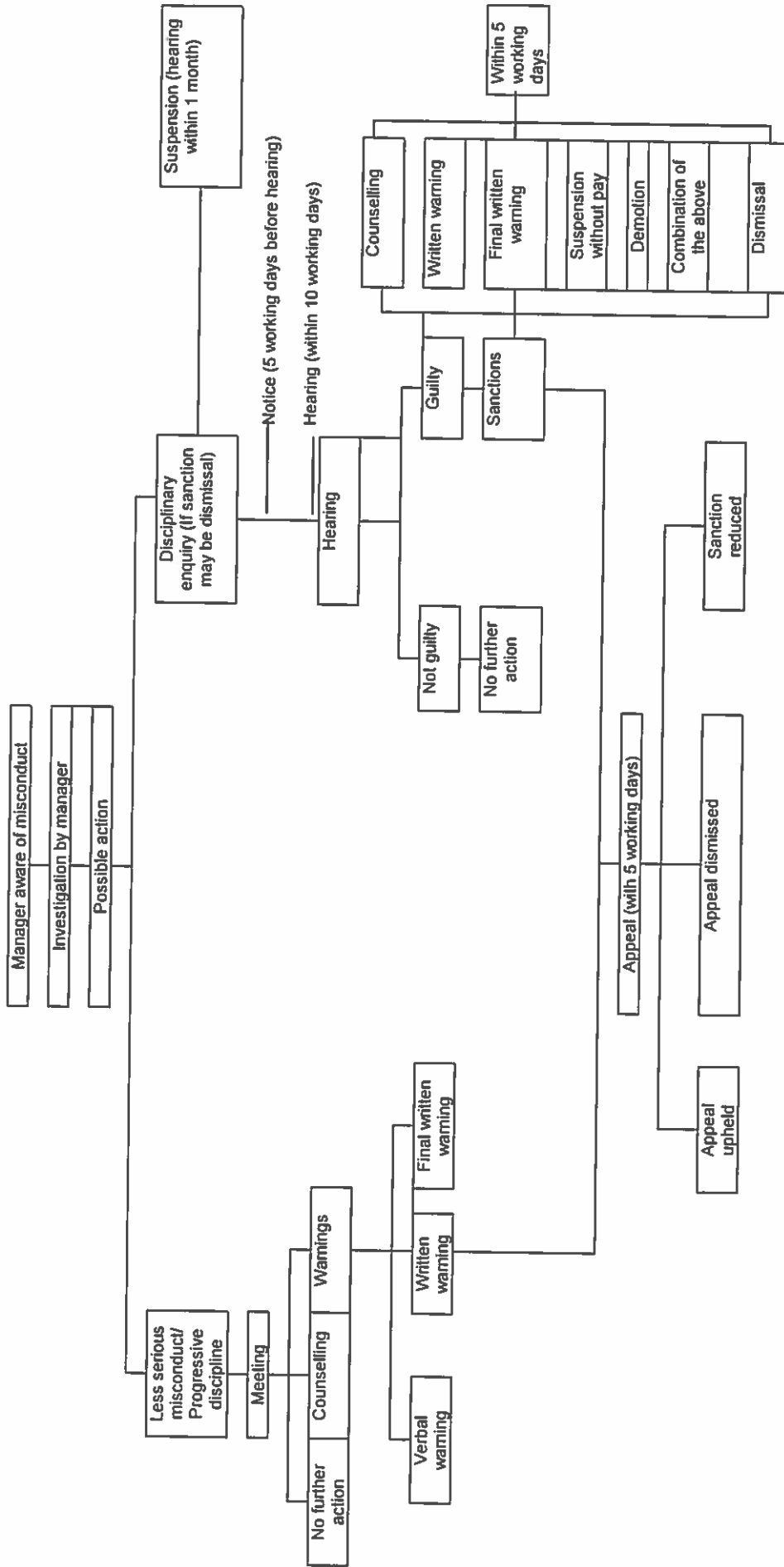
# 5

## FLOW DIAGRAM ON DISCIPLINARY PROCEDURES

The following page contains a schematic illustration of the new disciplinary code and procedures for the public service. From the illustration you will clearly see the different routes that can be adopted when deciding on the disciplinary action to take as well as the steps entailed by each.

You will note that counselling and the system of warnings form one part of the disciplinary system (i.e. progressive discipline system) whilst the formal disciplinary enquiry forms the other part of the system.

# NEW DISCIPLINARY CODE AND PROCEDURE FOR THE PUBLIC SERVICE



ANNEXURE A

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

Title \_\_\_\_\_

**ALLEGED MISCONDUCT: YOURSELF**

It has come to my attention that ... //I am aware that on \_\_\_\_\_ 2000 you ...

\_\_\_\_\_  
(describe nature of alleged misconduct)

In order to discuss the matter, you are required to attend a meeting in room \_\_\_\_\_//my office on \_\_\_\_\_ at \_\_\_\_\_. Please note that you have the right to representation by your trade union representative or a fellow employee.

Failure to attend the meeting could result in the matter having to be determined by a formal disciplinary enquiry.

\_\_\_\_\_  
**SIGNATURE OF MANAGER**

**DATE:**

\_\_\_\_\_  
**SIGNATURE OF EMPLOYEE**

**DATE:**

\_\_\_\_\_  
**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**

**WRITTEN WARNING**

**[NAME OF EMPLOYEE]**

**[PERSONAL DETAILS OF THE EMPLOYEE]**

This is a written warning in terms of the disciplinary procedure. Should you engage in further misconduct, the written warning may be taken into account in determining a more serious sanction.

The written warning will be placed in your personal file and will remain valid for a period of six months from the date of the written warning. After six months, the written warning will be removed from your personal file and be destroyed.

If you object to the warning, you may direct an appeal to [NAME] within five working days.

The nature of the misconduct is:

**SIGNATURE OF EMPLOYEE**

**DATE:**

**SIGNATURE OF MANAGER**

**DATE:**

**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**

**FINAL WRITTEN WARNING**

**[NAME OF EMPLOYEE]**

**[PERSONAL DETAILS OF THE EMPLOYEE]**

This is a final warning in terms of the disciplinary procedure. Should you engage in further transgressions, it could lead to formal misconduct proceedings being instituted against you.

This final written warning will be placed in your personal file and will remain valid for a period of six months from the date of the written warning. After six months, the written warning will be removed from your personal file and be destroyed.

If you object to the warning, you may direct an appeal to [Name] within five working days.

The nature of the misconduct is:

**SIGNATURE OF EMPLOYEE**

**DATE:**

**SIGNATURE OF MANAGER**

**DATE:**

**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**

**NOTICE OF DISCIPLINARY MEETING**

**[NAME OF EMPLOYEE]**

**[PERSONAL DETAILS OF THE EMPLOYEE]**

You are hereby given notice to attend a disciplinary hearing in terms of clauses 6 and 7 of the Disciplinary Code.

The alleged misconduct and the available evidence is:

**[A DETAILED DESCRIPTION OF MISCONDUCT MAY BE ATTACHED]**

---

---

---

The meeting will be held at \_\_\_\_\_ [PLACE] on \_\_\_\_\_ [DATE] at \_\_\_\_\_ [TIME]. If you do not attend and cannot give reasonable grounds for failing to attend, the meeting will be held in your absence.

A fellow employee or a representative of a recognised trade union may represent you.

You may give evidence to the hearing in the form of documents or through witnesses. You will be entitled to question any witness introduced by the department.

If the enquiry holds that you are guilty of misconduct, you may present any relevant circumstances in determining the disciplinary sanction.

**SIGNATURE OF EMPLOYEE**

**DATE:**

**SIGNATURE OF MANAGER**

**DATE:**

**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**

**ANNEXURE E**

**[NAME OF EMPLOYEE]**

**[PERSONAL DETAILS OF THE EMPLOYEE]**

Dear \_\_\_\_\_

**POSSIBLE SUSPENSION FROM DUTY: YOURSELF**

I am presently conducting and investigating // having an investigation conducted with regard to allegations of misconduct involving you. The allegations pertain to \_\_\_\_\_.

Due to the seriousness of the allegations, I am considering suspending you from duty. Before taking a decision in this regard, I wish to allow you the opportunity to make representations as to why you should not be suspended.

For the above-mentioned purpose, a meeting will be held in room \_\_\_\_\_ // my office on \_\_\_\_\_ at \_\_\_\_\_. Should you fail to avail yourself of the opportunity to make representations in this manner, you will be given the opportunity to submit written representations to me by close of business on \_\_\_\_\_.

Yours faithfully,

**SIGNATURE OF MANAGER**

**DATE:**

**SIGNATURE OF EMPLOYEE**

**DATE:**

**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**



[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

Dear \_\_\_\_\_

**SUSPENSION FROM DUTY: YOURSELF**

Our meeting of \_\_\_\_\_ during which you were given the opportunity to make representations as to why you should not be suspended from duty, refers.

I have considered your representations, but am of the opinion that your continued presence in the workplace might be prejudicial to the investigation into the alleged misconduct // might endanger the well-being or safety of staff of this department // might endanger the safety of the property of the state. You are therefore suspended, with full emoluments, with immediate effect pending the outcome of the investigation.

To avoid possible interference with the investigation or potential witnesses, you are not to enter the premises of the department or offices thereof. You are also directed to hand in the following items to \_\_\_\_\_, before you leave the premises today:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please note that this suspension does not in any way constitute a judgement on my part. It is merely a precautionary suspension in terms of the disciplinary code and procedure for the public service.

**SIGNATURE OF MANAGER**

**DATE:**

**SIGNATURE OF EMPLOYEE**

**DATE:**

**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**

**NOTICE OF APPEAL**

**[NAME OF APPEAL AUTHORITY]**

I, \_\_\_\_\_ [NAME OF EMPLOYEE] am hereby appealing against a disciplinary action imposed on \_\_\_\_\_ [DATE] at \_\_\_\_\_ [PLACE].

I attached a copy of the notice of the disciplinary enquiry and/or written warning. [THE APPEAL REQUEST IS NOT VALID UNLESS THESE DOCUMENTS ARE ATTACHED]

My reasons for appeal are:

The desired outcome of the appeal is:

I wish/do not wish [CHOOSE ONE] to provide additional evidence not available at the time of the disciplinary proceeding.

**SIGNATURE OF EMPLOYEE**

**DATE:**

**[PERSONAL DETAILS OF THE EMPLOYEE]**

**PART B: INCAPACITY  
(POOR PERFORMANCE)**

# 1

## KEY POINTS: INCAPACITY

The following should be kept in mind when utilising the incapacity procedures:

- |                                |  |
|--------------------------------|--|
| <b>When to use Code</b>        | <ul style="list-style-type: none"><li>• Use the Code in cases where the employee is <u>unable to consistently perform</u> at the expected level.</li><li>• Utilise the Code when trend of poor performance has developed, not as the result of once-off poor performance.</li><li>• The Code should first and foremost be utilised to improve the poor performance of an employee not to rid the department of the employee.</li></ul> |
| <b>Performance Management</b>  | <ul style="list-style-type: none"><li>• The departmental performance management system should provide guidelines as to when the incapacity procedures should be applied.</li><li>• Performance assessment should provide evidence as to consistent poor performance.</li></ul>   |
| <b>Adhere to procedures</b>    | <ul style="list-style-type: none"><li>• Do not dismiss employee on grounds of incapacity before incapacity procedures have been applied.</li><li>• Ensure that the provisions of the Code are adhered to.</li></ul>  |
| <b>Applies to probationers</b> | <ul style="list-style-type: none"><li>• The Code should also be applied in the case of employees on probation.</li></ul>   |

# 2

## DECISION TO UTILISE CODE

**Before deciding to apply the Code to an employee, you should have clarity on the following:**

- |   |  |
|---|--|
| <b>Awareness of expected level of performance</b> | <ul style="list-style-type: none"> <li>• Was the employee aware of the level or standard of performance expected of him or her?</li> </ul>   |
| <b>Proof</b>                                      | <ul style="list-style-type: none"> <li>• Do you have proof that the employee in fact under-performed?</li> <li>• Has the poor performance been tracked over a period of time?</li> <li>• Does the employee's performance assessment support your view that the employee is performing poorly?</li> <li>• Has any other steps been taken (e.g. training courses) to address the employee's poor performance?</li> </ul>                         |
| <b>Inability vs deliberate under-performance</b>  | <ul style="list-style-type: none"> <li>• Are you convinced that the employee's poor performance is the result of inability to perform at the required standard or does the employee have the ability to perform at that standard, but deliberately under-performs? [In the latter case, the misconduct procedures must be applied.]</li> </ul>   |
| <b>Paragraph 3.2 of Code</b>                      | <ul style="list-style-type: none"> <li>• Also assess the following:             <ul style="list-style-type: none"> <li>▪ Impact on public service, component, colleagues and public</li> <li>▪ Extent to which employee fails to meet standard</li> <li>▪ Extent to which employee lacks necessary skills to perform job</li> <li>▪ Nature of employee's work and responsibilities</li> <li>▪ Circumstances of employee</li> </ul> </li> </ul> |

# 3

## PROCEDURE TO BE FOLLOWED

Not once-off event

The incapacity procedure is not a once off event like a disciplinary hearing, but involves a series of events. It is largely based on the counselling approach referred to in Part A.

If you decide to invoke the incapacity procedure, the following steps need to be taken:

### Steps

- **Step 1 – Initiate procedure**
  - Inform employee in writing of reasons that necessitate the incapacity procedure to be invoked in his/her case.
  - Arrange a meeting with the employee to discuss the matter. (see Annexure A for example).
- **Step 2 – Counsel employee**
  - Allow employee (or his representative) to state his/her position on the alleged poor performance.
  - Depending on employee's response, do the following:
    - If employee agrees to poor performance, move on to other actions under this step
    - If employee denies poor performance, give employee warning (preferably in writing) that continued poor performance will lead to more serious action in terms of disciplinary procedure
  - Assess and establish timeframe required for improvement.
  - Identify appropriate training to be given to employee, if required.
  - Agree on ways to deal with external factors affecting performance.
- **Step 3 – Monitoring**
  - Monitor effect of strategy for improvement throughout identified timeframe period
  - At end of the monitoring period, assess whether the employee has improved or not, and depending on the finding, do the following:
    - If the employee remedied the poor performance, inform him/her and terminate the procedure;
    - If the employee failed to remedy the poor performance, he/she must be given a written report on the outcome of the procedure and step 5 should be proceeded with.
- **Step 4 – Follow-up consultation meeting**
  - Call employee to meeting (see Annexure B for example) – this can form part of a letter under cover of which written report is forwarded to employee).
  - Consult with employee by explaining outcome of the procedure (i.e. discuss written report with employee) and measures to be taken to address any problems indicated in the report.

- **Step 5 – Decision**

- Following consultation with employee, decide on appropriate action to take, which could be one of the following:
  - Continue with further counselling cycle (steps 2 and 3 and 4 and 5 [if required])
  - Embark on mentoring programme
  - Place the employee in a more appropriate job
  - Dismiss the employee.

**Grant employee hearing**

- Before implementing the option of placement in an alternative job or dismissal, the employee must be given a hearing to establish failure to meet the requirements (see Annexure C for example).

**Employee to agree**

- If placement in a different job entails lower pay, the employee's agreement must be obtained.

**Implement**

- Exercise the option decided upon.

*Notes*

- 1) The employee may be assisted in all meetings in terms of this procedure by a co-employee or trade union representative.
- 2) It is advisable to bring a witness into the meeting where the employee is confronted with the decision of placement in an alternative job or dismissal.
- 3) If the employee does not agree to accept a placement in a different job where it entails lower pay, the option of dismissal will probably have to be reconsidered.

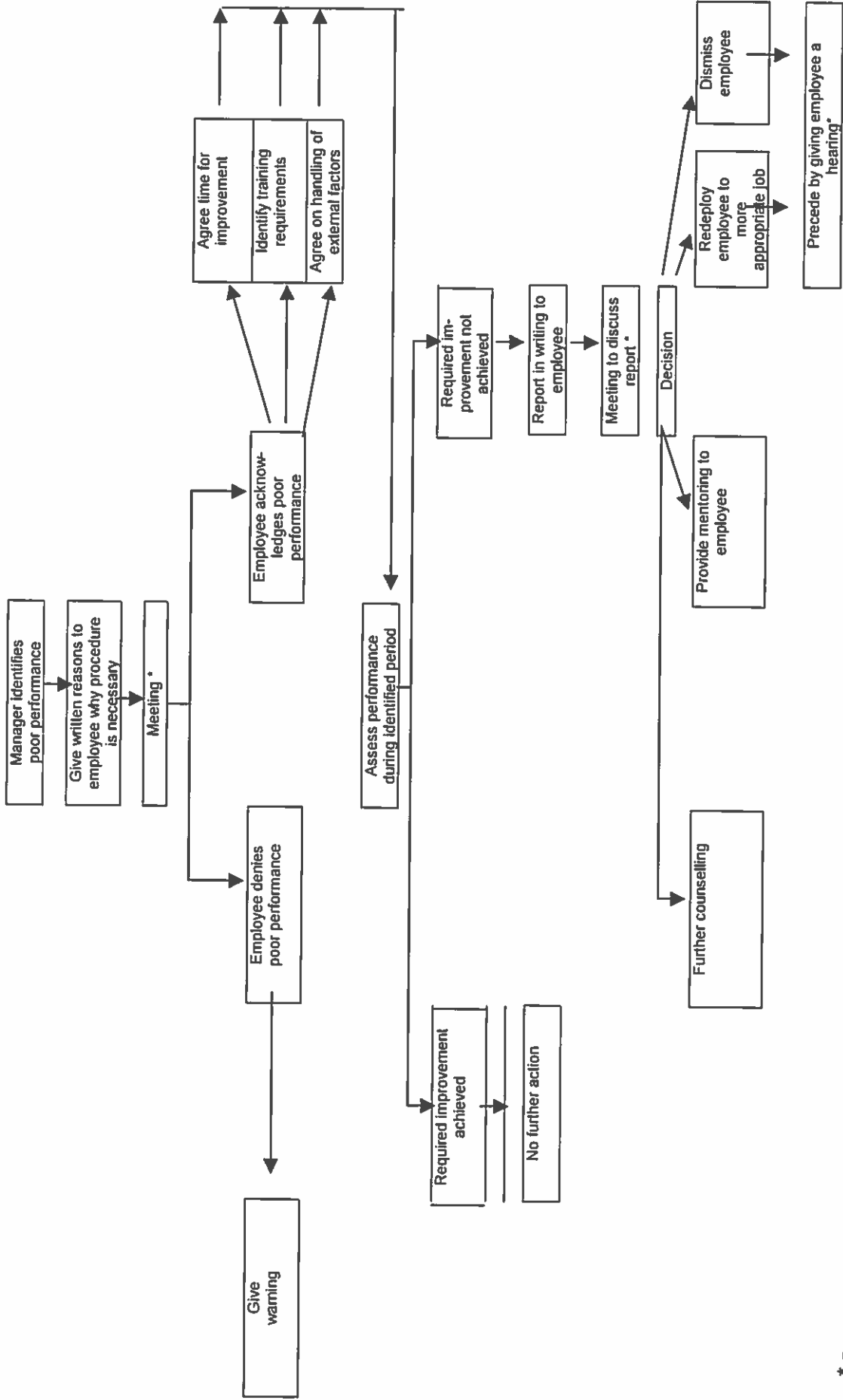
# 4

## **FLOW DIAGRAM ON INCAPACITY PROCEDURES (POOR PERFORMANCE)**

The following page contains a schematic illustration of the new incapacity code and procedures (poor performance) for the public service. The illustration will allow you to follow the procedure at a glance. The illustration highlights the main moments of the procedure.



INCAPACITY CODE AND PROCEDURES IN RESPECT OF POOR PERFORMANCE



\* Representation by co-employee or trade union representative allowed

ANNEXURE A

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

Title

**POOR PERFORMANCE: YOURSELF**

Since \_\_\_\_\_ [date] it has been brought to your attention that your performance has not been meeting the required standard. The following are examples of where you failed to meet the standard:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your performance assessment of \_\_\_\_\_ [date] supports the above-mentioned position. Due to the fact that there has been no improvement in the situation, I have no option but to invoke the provisions of the incapacity code and procedures for the public service (Resolution No. 10/99 of the Public Service Co-ordinating Bargaining Council).

In line with the provisions of the Code, you are requested to attend a meeting in room \_\_\_\_ // my office on \_\_\_\_\_ [date] at \_\_\_\_\_ [time] where the matter will be discussed. Please note that you may be represented by a co-employee or a trade union representative in the meeting.

\_\_\_\_\_  
**SIGNATURE OF MANAGER**

**DATE:**

\_\_\_\_\_

**SIGNATURE OF EMPLOYEE**

**DATE:**

\_\_\_\_\_

**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

Title

**APPLICATION OF INCAPACITY CODE AND PROCEDURES: REPORT AND CONSULTATION MEETING**

During our meeting of \_\_\_\_\_ [date] in terms of the incapacity code and procedures for the public service, we *inter alia* agreed that you be allowed [MENTION TIMEFRAME AGREED] to remedy your poor performance.

The above-mentioned period lapsed on \_\_\_\_\_ [date]. Attached please find a report on the outcome of the procedure. In order to discuss the report, you are requested to attend a meeting in room \_\_\_\_\_ // my office on \_\_\_\_\_ [date] at \_\_\_\_\_ [time]. Please note that you may again be represented by a co-employee or a trade union representative.

\_\_\_\_\_  
SIGNATURE OF MANAGER

DATE:

\_\_\_\_\_  
SIGNATURE OF EMPLOYEE

DATE:

\_\_\_\_\_  
SIGNATURE OF WITNESS (IF APPLICABLE)

DATE:

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

Title

**ACTION IN TERMS OF INCAPACITY CODE AND PROCEDURE**

During our meeting of \_\_\_\_\_ [date] where we discussed the report on the outcome of the incapacity procedure in respect of yourself, I indicated to you that I would consider which appropriate action to take.

I am considering terminating your services // placing you in a post of \_\_\_\_\_ [job title]. In terms of the code I, however, need to give you a further opportunity to address me on your failure to meet the required standard and on why I should not terminate your services // place you in a post of \_\_\_\_\_ [job title].

You are requested to attend a meeting in room \_\_\_\_ // my office on \_\_\_\_\_ [date] at \_\_\_\_ [time]. You are reminded that you may be represented by a co-employee or a trade union representative in the meeting.

\_\_\_\_\_  
**SIGNATURE OF MANAGER**

**DATE:**

\_\_\_\_\_  
**SIGNATURE OF EMPLOYEE**

**DATE:**

\_\_\_\_\_  
**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**

**PART C: INCAPACITY IN  
RESPECT OF ILL-HEALTH  
OR INJURY**

# 1

## KEY POINTS: INCAPACITY: ILL-HEALTH

The following key points must be borne in mind when the ill-health procedure is utilised:

- |   |  |
|---|--|
| <b>Management instrument</b>              | <ul style="list-style-type: none"><li>• The procedure is a management instrument to be invoked by the employer, not the employee;</li><li>• The principle to protect employment as far as possible should be adhered to – in other words, it is not a tool that an employee can use, if he/she does not want to work any longer.</li></ul>   |
| <b>Direct link with ill-health/injury</b> | <ul style="list-style-type: none"><li>• The procedure is only to be used in cases of poor performance or non-performance that are directly linked to ill-health or injury.</li><li>• Not to be used in cases where there is apparent abuse of sick leave (this constitutes misconduct).</li><li>• Only to be used in cases of alcohol or drug abuse where it can be linked to ill-health (i.e. where a pattern of constant intoxication or drug dependency is clear) – otherwise to be dealt with in terms of the disciplinary code.</li></ul> |
| <b>Medical evidence</b>                   | <ul style="list-style-type: none"><li>• Evidence by a medical practitioner is critical in deciding how to deal with an employee in terms of this procedure.</li></ul>  |
| <b>Not punitive</b>                       | <ul style="list-style-type: none"><li>• It is not a tool to punish an employee but to assist him/her.</li></ul>  |

# 2

## WHEN TO UTILISE THE CODE

The incapacity code on ill-health should obviously not be invoked every time an employee takes sick leave. The following factors should guide you in deciding whether to invoke the code:

- |                                |   |
|--------------------------------|---|
| <b>Link to sick leave</b>      | <ul style="list-style-type: none"><li>• Has the employee exhausted his/her sick leave for the specific sick leave cycle for the same or related ailment?</li><li>• Has disability leave (in terms of the new leave provisions) repeatedly been granted to the employee for the same or related ailment?</li></ul> |
| <b>Chronic illness</b>         | <ul style="list-style-type: none"><li>• Are you aware or do you suspect that the employee is suffering from a chronic illness?</li></ul>  |
| <b>Accident</b>                | <ul style="list-style-type: none"><li>• Has the employee been involved in a serious accident?</li></ul>   |
| <b>Alcohol/drug dependency</b> | <ul style="list-style-type: none"><li>• Are you aware or do you suspect that the employee is suffering from alcohol or drug dependency?</li></ul>   |
| <b>Performance link</b>        | <ul style="list-style-type: none"><li>• Has the employee's performance suffered as a result of his/her illness?</li></ul>   |

## 3

## PROCEDURE TO BE FOLLOWED

The Code prescribes the following steps to be followed if an employee is found not to be performing or to be performing sub-standard as a result of poor health or injury:

## Steps

- **Step 1 – Investigation**
  - Conduct an investigation to determine the extent of the employee’s poor health or injury.
  - Obtain relevant medical evidence on the employee’s condition (e.g. from his/her medical practitioner or an independent medical practitioner).
  - Allow the employee or his/her trade union representative to state the employee’s case and to give inputs on all issues being investigated or considered (see Annexure A for example).
  - Determine whether the nature of the ill-health or injury is temporary or permanent
  - For purposes of the investigation, the following must be considered:
    - nature of the job
    - likely period of absence
    - seriousness of illness or injury
    - remuneration of employee during period of absence
    - possibility of securing temporary replacement.
- **Step 2 – Report**
  - Provide employee with a written report on the investigation (see Annexure B for example).
  - Set out results of investigation in report.
- **Step 3 – Action**
  - If the outcome of the investigation points to **temporary** incapacity, decide on how to cover for expected period of absence of employee (e.g. temporary appointment, secondment of another officer, assigning work to another officer(s), etc). The granting of further disability leave also needs to be considered at this point.
  - If ill-health or injury proves to be of a **permanent** nature, consider the following:
    - secure alternative employment for the employee
    - adapt the employee’s work circumstances to his/her disability
    - offer boarding on grounds of ill-health or injury.
  - If the ill-health proves to be the **result of alcohol or drug abuse**, consider any of the following actions:
    - counsel employee
    - encourage employee to attend rehabilitation
    - establish formal rehabilitation programme which employee is to follow
    - terminate employment of employee after fair procedure (if behaviour is repetitive)



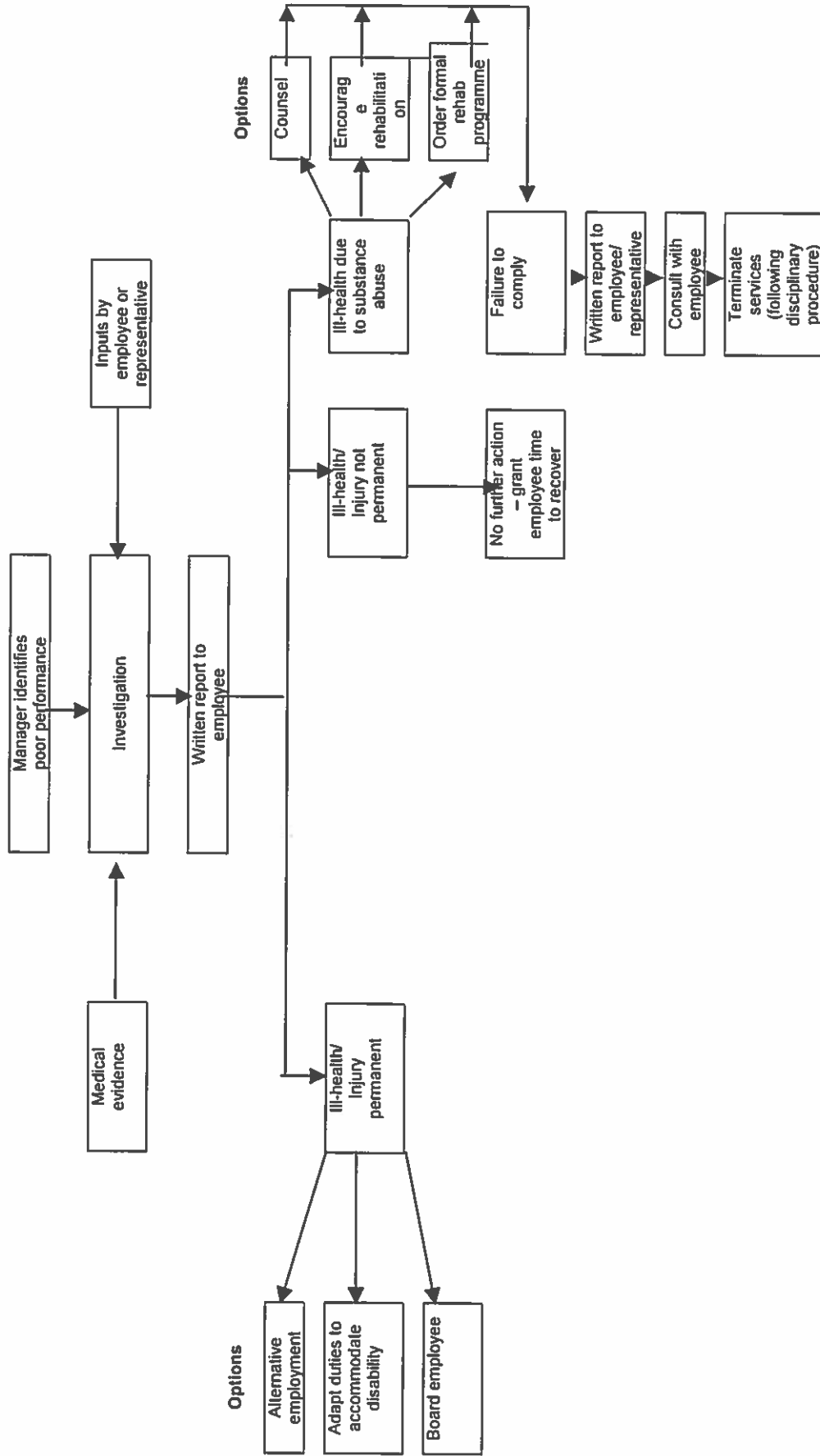
- In cases where the employee fails to follow the formal programme or attend rehabilitation or address the problem of alcohol or drug abuse he/she (or his/her representative) must again be given a written report and be consulted (see Annexure C for example). Should termination of the employee's services as a result of his/her non-co-operation be considered, the normal disciplinary process needs to be followed.

# 4

## FLOW DIAGRAM ON ILL-HEALTH AND INJURY PROCEDURES

Attached is a flow diagram that indicates the various steps in the ill-health procedure. The diagram deals with the scenarios of temporary ill-health/injury, permanent ill-health/injury, and ill-health due to substance abuse.

# INCAPACITY DUE TO ILL-HEALTH



[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

Title

**INVESTIGATION INTO INCAPACITY DUE TO ILL-HEALTH/INJURY: YOURSELF**

As a result of the fact that you have been granted \_\_\_\_ days sick/disability leave over the past \_\_\_\_\_ months, an investigation into your incapacity has been launched in terms of the incapacity code and procedures in respect of ill-health for the public service (Resolution No. 12/99 of the Public Service Co-ordinating Bargaining Council).

The issues being investigated are the following:

---

---

---

It would be appreciated if you could state your case as far as this matter is concerned and provide me with inputs on the issues mentioned above by \_\_\_\_\_ [date]. Your trade union/representative or a co-employee is welcome to act on your behalf in this matter.

---

**SIGNATURE OF MANAGER**

**DATE:**

---

**SIGNATURE OF EMPLOYEE**

**DATE:**

---

**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

Title

**REPORT ON INVESTIGATION INTO INCAPACITY DUE TO ILL-HEALTH/INJURY: YOURSELF**

In my letter dated \_\_\_\_\_, you were invited to submit inputs to me on the investigation into your incapacity due to ill-health/injury.

The investigation has now been concluded. Attached, please find a report on the matter, containing the results of the investigation.

A decision regarding your case will be taken soon, after which you will be informed of the outcome.

---

**SIGNATURE OF MANAGER**

**DATE:**

---

**SIGNATURE OF EMPLOYEE**

**DATE:**

---

**SIGNATURE OF WITNESS (IF APPLICABLE)**

**DATE:**

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

Mr/Ms

**REHABILITATION IN TERMS OF INCAPACITY CODE AND PROCEDURES: ILL-HEALTH/  
INJURY**

In our meeting of \_\_\_\_\_, you were counselled to address your alcohol/drug abuse problem // we agreed that you would attend rehabilitation to assist you in addressing your alcohol/drug abuse problem // you were informed of and requested to follow the formal rehabilitation programme that had been established to assist you in addressing you alcohol/drug abuse problem.

You have, however, failed to address the problem // attend rehabilitation // follow the formal programme. Attached, please find a report on the matter.

In order to discuss the matter, you are required to attend at meeting in room \_\_\_\_\_ // my office on \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_  
SIGNATURE OF MANAGER

DATE:

\_\_\_\_\_  
SIGNATURE OF EMPLOYEE

DATE:

\_\_\_\_\_  
SIGNATURE OF WITNESS (IF APPLICABLE)

DATE:



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

*Regu*

*1*

Vol. 457

Pretoria, 25 July  
Julie 2003

**No. 25209**



9771682584003



**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

**CONTENTS****INHOUD**

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>	<i>No.</i>		<i>Bladsy No.</i>	<i>Koerant No.</i>
<b>GOVERNMENT NOTICE</b>				<b>GOEWERMENTSKENNISGEWING</b>			
	<b>Public Service Commission, Office of the Government Notice</b>				<b>Staatsdienskommissie, Kantoor van die Goewermentskennisgewing</b>		
R. 1012	Public Service Commission Act (46/1997): Rules for Dealing with the Grievances of Employees in the Public Service .....	3	25209	R. 1012	Staatsdienskommissiewet (46/1997): Reëls vir die Hantering van Griewe van Werknemers in die Staatsdiens .....	3	25209



## GOVERNMENT NOTICE GOEWERMENSKENNISGEWING

### OFFICE OF THE PUBLIC SERVICE COMMISSION KANTOOR VAN DIE STAATSDIENSKOMMISSIE

No. R. 1012

25 July 2003

#### RULES FOR DEALING WITH THE GRIEVANCES OF EMPLOYEES IN THE PUBLIC SERVICE

It is hereby notified for general information that the Public Service Commission has under section 11 of the Public Service Commission Act, 1997 (Act No. 46 of 1997), read in conjunction with section 196 (4) (f) (ii) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), made the Rules set out in Schedule 1 hereto.

Thus done and signed at Pretoria on this Twenty-fifth day of July 2003.

**S. S. SANGWENI**

Chairperson

Public Service Commission

#### SCHEDULE 1

##### A. DEFINITIONS

In this procedure, unless the context indicates otherwise—

“**Commission**” means the Public Service Commission established in terms of section 196 (1) of the Constitution;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“**days**” refers to working days;

“**executing authority**” means an authority as defined in subsection 1 (1) of the Public Service Act, 1994;

“**grievance**” means a dissatisfaction regarding an official act or omission by the employer which adversely affects an employee in the employment relationship, excluding an alleged unfair dismissal;

“**head of department**” means the incumbent of a post mentioned in Schedules 1, 2 and 3 of the Public Service Act, 1994, or the person acting in such post;

“**Public Service Act**” means the Public Service Act, 1994 (Proclamation No. 103 of 1994);

“**recognised trade union**” means all the trade unions admitted to the Public Service Co-ordinating Bargaining Council as well as any other trade union that enjoys the relevant organisational rights in a particular department;

“**resolve**” means to settle a grievance to the satisfaction of the aggrieved employee;

“**representative**” means a fellow employee, a representative or official of a recognised trade union.

No. R. 1012

25 Julie 2003

#### REÛLS VIR DIE HANTERING VAN GRIEWE VAN WERKNEMERS IN DIE STAATSDIENS

Hiermee word vir algemene kennisname bekend gemaak dat die Staatsdienskommissie kragtens artikel 11 van die Staatsdienskommissiewet, 1997 (Wet No. 46 van 1997), saamgelees met artikel 196 (4) (f) (ii) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), die Reëls uitgevaardig het soos in Bylae 1 hierby uiteengesit.

Aldus gedoen en geteken te Pretoria op hede die Vyf-entwintigste dag van Julie 2003.

**S. S. SANGWENI**

Voorsitter

Staatsdienskommissie

#### BYLAE 1

##### A. DEFINISIES

In hierdie prosedure, tensy anders vermeld, beteken—

“**dae**” werksdae;

“**erkende werknemersorganisasie**” al die werknemersorganisasies toegelaat tot die Staatsdiens Gekoördineerde Bedingingsraad asook enige werknemersorganisasie wat die relevante organisatoriese regte in 'n spesifieke departement geniet;

“**grief**” 'n ontevredeheid met betrekking tot 'n amptelike handeling of nalate deur die werkgewer wat die werknemer in die werksverhouding nadelig beïnvloed, met uitsluiting van 'n beweerde onbillike ontslag;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);

“**hoof van departement**” die ampsbekleër van 'n pos vermeld in Skedules 1, 2 en 3 van die Staatsdienswet, 1994, of die persoon wat in sodanige pos waarneem;

“**Kommissie**” die Staatsdienskommissie tot stand gebring in terme van artikel 196 (1) van die Grondwet;

“**oplos**” om 'n grief tot die tevredeheid van die gegriefde werknemer te skik;

“**Staatsdienswet**” die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994);

“**uitvoerende gesag**” 'n gesag soos gedefinieer in subartikel 1 (1) van die Staatsdienswet, 1994;

“**verteenwoordiger**” 'n medewerknemer, 'n verteenwoordiger of beampete van 'n erkende werknemersorganisasie.

**B. PURPOSE AND APPLICATION**

1. The purpose of this grievance procedure is to advance sound labour relations and address grievances in the public service by fulfilling the primary objectives of this procedure which are—
  - (a) to give effect to section 196 (4) (f) (ii) of the Constitution which empowers the Commission to investigate grievances of employees in the public service concerning official acts or omissions, and recommend appropriate remedies;
  - (b) to give effect to section 11 of the Public Service Commission Act, 1997 (Act No. 46 of 1997), which empowers the Commission to make Rules to deal with grievances;
  - (c) to promote—
    - (i) speedy, impartial and equitable handling of grievances;
    - (ii) sound labour relations;
    - (iii) resolution of individual grievances at the lowest possible level in a department.

**C. MANAGING A GRIEVANCE**

1. A grievance must as far as possible be resolved by an employer and as close to the point of origin as possible.
2. The employer must ensure that the grievance is dealt with in a fair, impartial and unbiased manner, and that the principles of natural justice are observed.
3. The procedure must be such that it assists and enables an employer and an employee to address a dissatisfaction.
4. No employee must be victimised or prejudiced, directly or indirectly as a result of lodging a grievance.
5. If disciplinary action is being taken against an employee, utilisation of this procedure by the employee to address any matter related to the disciplinary action shall not halt the disciplinary procedure.
6. A grievance must be lodged in writing and all decisions taken during the process must be in writing.
7. An employee may be assisted by a representative.

**D. ADHERENCE TO TIME LIMITS**

1. In determining adherence to time limits, this should be calculated by excluding the first day and including the last day.
2. The parties must adhere to the time limits set out in this procedure, unless they mutually agree to extend them.
3. A grievance must be lodged with the employer within 90 days from the date on which the employee became aware of the official act or omission which adversely affects him or her.

**B. DOEL EN AANWENDING**

1. Die doel van hierdie griewe prosedure is om gesonde arbeidsverhoudinge te bevorder en om griewe in die Staatsdiens te hanteer deur aan die primêre doelwitte van hierdie prosedure te voldoen, naamlik deur—
  - (a) uiting te gee aan artikel 196 (4) (f) (ii) van die Grondwet, wat die Kommissie magtig om griewe van werknemers in die Staatsdiens aangaande amptelike handeling en nalates te ondersoek, en om gepaste remedies aan te beveel;
  - (b) uiting te gee aan artikel 11 van die Staatsdienskommissiewet, 1997 (Wet No. 46 van 1997), wat die Kommissie magtig om reëls te maak vir die hantering van griewe;
  - (c) die bevordering van—
    - (i) spoedige, onpartydige en regverdige hantering van griewe;
    - (ii) gesonde arbeidsverhoudinge;
    - (iii) die oplossing van individuele griewe op die laagste moontlike vlak binne 'n departement.

**C. HANTERING VAN 'N GRIEF**

1. 'n Grief moet so ver moontlik deur 'n werkgewer opgelos word, en so na as moontlik aan die punt van oorsprong daarvan.
2. Die werkgewer moet seker maak dat die grief hanteer word op 'n regverdige, onpartydige en onbevooroordeelde wyse, en dat die beginsels van natuurlike geregtigheid nagekom word.
3. Die prosedure moet van so 'n aard wees dat dit meewerk met en die werkgewer en werknemer in staat stel om 'n ontevreedenheid aan te spreek.
4. Geen werknemer mag, direk of indirek, geviktiseer of benadeel word as gevolg van die rig van 'n grief nie.
5. Indien dissiplinêre aksie teen 'n werknemer geneem word, sal die gebruik van hierdie prosedure deur 'n werknemer, om enige aspek wat verband hou met die dissiplinêre aksie aan te spreek, nie die dissiplinêre prosedure stuit nie.
6. 'n Grief moet skriftelik gerig word en alle besluite geneem tydens die proses moet op skrif gestel word.
7. 'n Werknemer mag deur 'n verteenwoordiger bygestaan word.

**D. NAKOMING VAN DIE TYDSBEPERKINGS**

1. Om vas te stel of die tydsbeperkings nagekom is, moet, by die berekening daarvan, die eerste dag uitgesluit en die laaste dag ingesluit word.
2. Die partye moet die tydsbeperkings in hierdie prosedure uiteengesit nakom, tensy hulle skriftelik onderling ooreengekom het om dit te verleng.
3. 'n Grief moet aan die werkgewer gerig word binne 'n periode van 90 dae vanaf die datum waarop die werknemer bewus geword het van die amptelike handeling of nalate wat hom of haar nadelig affekteer.

4. An employee may demand that his or her grievance be referred to the Commission within 10 days after receiving the executing authority's decision.

#### E. PROVISION OF INFORMATION

1. An employer must provide relevant information necessary for an employee to lodge or pursue a grievance, if requested.
2. The provision of such information is subject to any limitations imposed by law.
3. The employee must be provided with information about the status of the grievance and the progress made towards the planned finalisation date.
4. The employer must provide the employee with a copy of the grievance form after each applicable level of authority dealt with the grievance.

#### F. DEPARTMENTAL STAGES TO ADDRESS A GRIEVANCE

1. An employee may lodge a grievance with an employee designated to facilitate the resolution of grievances in the department.
2. The prescribed form at Annexure A must be used when a grievance is lodged.
3. The designated employee must liaise with the relevant structures of authority of the department in an attempt to resolve the grievance.
4. The grievance may be resolved by any person within the relevant structures of authority who has the requisite authority to do so.
5. The aggrieved employee will be duly informed by the designated employee about the status and progress made towards the resolution of the grievance.
6. If the grievance is resolved to the satisfaction of the aggrieved employee the confirmation thereof will be reduced to writing by the designated employee.
7. If a grievance cannot be resolved, the executing authority must inform the aggrieved employee accordingly.
8. The department (including the executing authority) has 30 days to deal with the grievance. The period may be extended by mutual agreement in writing.
9. If after the aggrieved employee is informed of the outcome of the grievance and he/she remains dissatisfied—
  - (a) he/she must inform the executing authority thereof in writing within 10 days;
  - (b) the executing authority must in terms of section 35 (1) of the Public Service Act, 1994, forward the grievance and the relevant documentation to the Public Service Commission for a recommendation within five days of being informed by the aggrieved employee.

4. 'n Werknemer mag eis dat sy of haar grief na die Kommissie verwys word binne 10 dae na ontvangs van die uitvoerende gesag se besluit.

#### E. VERSKAFFING VAN INLIGTING

1. 'n Werkgewer moet, indien so versoek, alle relevante inligting aan die werknemer verskaf, indien dit deur die werknemer benodig word ten einde 'n grief te rig of om dit voort te sit.
2. Die verskaffing van sodanige inligting is onderworpe aan enige beperkinge daargestel deur die reg.
3. Die werknemer moet voorsien word van inligting aangaande die status van die grief en die vordering wat gemaak word ten einde die beplande datum van finalisering te bereik.
4. Die werkgewer moet die werknemer voorsien van 'n afskrif van die griewe vorm nadat elke toepaslike vlak van gesag die grief hanteer het.

#### F. DEPARTEMENTELE VLAKKE VIR DIE HANTERING VAN 'N GRIEF

1. 'n Werknemer mag 'n grief rig aan die aangewese werknemer, wie die oplossing van griewe in die departement fasiliteer.
2. Die voorgeskrewe vorm, Addendum A, moet gebruik word wanneer 'n grief gerig word.
3. Die aangewese werknemer moet skakel met al die relevante gesagstrukture van die departement in 'n poging om die grief op te los.
4. Die grief mag opgelos word deur enige werknemer binne die relevante gesagstrukture wie die vereiste magtiging het om dit te doen.
5. Die gegriefde werknemer moet gereeld deur die aangewese werknemer ingelig word aangaande die status van en die vordering gemaak ten opsigte van die oplossing van die grief.
6. Indien die grief opgelos is tot bevrediging van die gegriefde werknemer sal bevestiging daarvan skriftelik deur die aangewese werknemer aangeteken word.
7. Indien 'n grief nie opgelos kan word nie, moet die uitvoerende gesag die gegriefde werknemer dienoreenkomstig inlig.
8. Die departement (insluitende die uitvoerende gesag) het 30 dae tyd om die grief af te handel. Die periode mag skriftelik by onderlinge ooreenkoms verleng word.
9. Indien die gegriefde werknemer, nadat hy of sy ingelig is oor die uitkoms van die grief, steeds ontevrede is, moet—
  - (a) hy of sy die uitvoerende gesag binne 10 dae skriftelik daarvan in kennis stel;
  - (b) die uitvoerende gesag in terme van artikel 35 (1) van die Staatsdienswet, 1994, die grief en alle relevante dokumente binne vyf dae, nadat hy of sy so deur die gegriefde werknemer in kennis gestel is, na die Kommissie vir 'n aanbeveling verwys.

10. If the grievance constitutes an alleged unfair labour practice as defined in the Labour Relations Act, 1995, the employee may inform the executing authority in writing that he/she wishes to utilise the dispute resolution mechanisms provided for in the constitution of the Public Service Co-ordinating Bargaining Council or the relevant sectoral council (whichever is applicable) and that the Public Service Commission should therefore not consider the grievance.
11. If there is failure on the part of the department to respond to the grievance within the period referred to in Rule F8, the aggrieved officer may lodge his or her grievance with—
  - (a) the Commission directly; or
  - (b) in the case of an alleged unfair labour practice, with the Public Service Co-ordinating Bargaining Council or the relevant sectoral council (whichever is applicable) in terms of its dispute resolution procedure.

#### G. REFERRAL TO THE COMMISSON

1. Once the Commission has received all the information from the executing authority, it must within 30 days consider such grievance and inform the executing authority of its recommendation and the reasons for its decision in writing.
2. On receipt of the Commission's recommendation, the executing authority must, within five days, inform the employee and the Commission of his or her decision in writing.

#### H. GRIEVANCES OF HEADS OF DEPARTMENT

1. If a head of department has a grievance, he/she may in the case—
  - (a) of the head of a national department, submit the grievance to the President; or
  - (b) of the head of a provincial department, submit the grievance to the relevant Premier.
2. The President or Premier has 30 days to deal with the grievance. The period may be extended by mutual agreement.
3. Rules F9 and 10 will, read with the changes required by the context, apply to all grievances of heads of department.

#### I. EVALUATION

1. The head of department must ensure that grievance resolution is evaluated by maintaining a record of the number of grievances resolved from the beginning of each calendar year and report to the Commission on a six monthly basis.
2. The Commission must report on the management of grievances and the efficiency of the grievance procedure at least once a year to the National Assembly and in respect of its activities in a Province to the legislature of that Province.

10. Indien die grief 'n beweerde onbillike arbeidspraktyk, soos gedefinieer in die Arbeidsverhoudingswet, 1995 daarstel, mag die werknemer die uitvoerende gesag skriftelik in kennis stel dat hy of sy verkies om die dispuut resoluie meganismes, waarvoor in die grondwet van die Staatsdiens Gekoördineerde Bedingingsraad of die relevante Sektorale Bedingingsraad (welke van toepassing is) voorsiening gemaak word te gebruik en dat die Kommissie nie die grief moet oorweeg nie.

11. Indien die departement nalaat om binne die tydperk voorgeskryf in Reël F8 met die grief te handel, mag die gegriefde werknemer sy of haar grief—

- (a) direk aan die Kommissie rig; of
- (b) in die geval van 'n beweerde onbillike arbeidspraktyk, aan die Staatsdiens Gekoördineerde Bedingingsraad of die relevante Sektorale Bedingingsraad (welke van toepassing is) rig, in terme van die betrokke dispuut resoluie prosedure.

#### G. VERWYSING NA DIE KOMMISSIE

1. Sodra die Kommissie al die inligting vanaf die uitvoerende gesag ontvang het, moet die Kommissie binne 30 dae sodanige grief oorweeg en die uitvoerende gesag skriftelik van die Kommissie se aanbeveling en die redes daarvoor in kennis stel.
2. Binne vyf dae na onvangs van die Kommissie se aanbeveling moet die uitvoerende gesag die werknemer en die Kommissie skriftelik van sy of haar besluit in kennis stel.

#### H. GRIEWE VAN HOOFDE VAN DEPARTEMENTE

1. Indien 'n hoof van 'n departement gegrief is, mag hy of sy in die geval van—
  - (a) die hoof van 'n nasionale departement die grief na die President verwys; of
  - (b) die hoof van 'n provinsiale departement die grief na die relevante Premier verwys.
2. Die President of die Premier het 30 dae tyd om die grief af te handel. Die periode mag by onderlinge ooreenkoms verleng word.
3. Reëls F9 en 10 sal, saamgelees met die veranderings vereis deur die konteks, van toepassing wees op alle griewe van hoofde van departemente.

#### I. EVALUERING

1. 'n Hoof van 'n departement moet verseker dat die oplossing van griewe geëvalueer word deur die instandhouding van 'n rekord van die getal griewe wat gedurende elke kalenderjaar opgelos word en moet op 'n sesmaandelikse basis daaromtrent verslag doen aan die Kommissie.
2. Die Kommissie moet ten opsigte van die hantering van griewe en die effektiwiteit van die griewe prosedure, een maal per jaar aan die Nasionale Vergadering en die Provinsiale Wetgewers verslag doen.

**J. OTHER PROCEDURES**

When a grievance is lodged in terms of this procedure, an aggrieved employee must disclose whether he or she is utilising any other procedure.

**K. TRANSITIONAL MEASURES**

1. A grievance lodged before the promulgation of the Interim Rules, namely before 1 July 1999, shall be dealt with and concluded as if the Public Service Regulations had not been repealed.
2. A grievance lodged before the promulgation of these grievance rules, must be dealt with and concluded in terms of the Interim Grievance Rules promulgated in *Government Gazette* No. 20231 of 1999.

**L. DATE OF COMMENCEMENT**

The date of commencement of these Rules is, subject to the provisions of Rule K, 19 September 2003.

**J. ANDER PROSEDURES**

Wanneer 'n grief in ooreenstemming met die bepalings van hierdie prosedure gerig is, moet 'n gegriefde werknemer openbaar of hy of sy gelyktydig 'n ander prosedure volg.

**K. OORGANGSBEPALINGS**

1. 'n Grief gerig voor die inwerkingtreding van die Interim Reëls, naamlik voor 1 Julie 1999, sal hanteer en afgehandel word asof die Staatsdiensregulasies nie herroep is nie.
2. 'n Grief gerig voor die inwerkingtreding van hierdie Griewe Reëls, moet hanteer en afgehandel word in ooreenstemming van die bepalings van die Interim Griewe Reëls gepubliseer in *Staatskoerant* No. 20231 van 1999.

**L. DATUM VAN INWERKINGTREDING**

Die datum waarop hierdie Reëls in werking tree is, onderworpe aan die voorskrifte van Reël K, 19 September 2003.



**SCHEDULE 2****GOVERNMENT NOTICE REPEALED**

<b>Number and year of Notice</b>	<b>Short title</b>	<b>Extent of the repeal</b>
Notice 20231 of 1999	Interim Grievance Rules of the Public Service Commission	The repeal of the whole with effect from 19 September 2003

## BYLAE 2

## GOEWERMENSKENNISGEWING HERROEP

Nommer en jaar van kennisgewing	Kort titel	Omvang van die herroeping
Kennisgewing 20231 van 1999	Interim Griewe Reëls van die Staatsdienskommissie	Die herroeping van die geheel met ingang van 19 September 2003



## Annexure A

**GRIEVANCE FORM****PLEASE READ THE FOLLOWING INSTRUCTIONS BEFORE COMPLETING THE FORM**

1. This form must be used to lodge a grievance (excluding an alleged unfair dismissal) when you are dissatisfied with an official act or omission and you have been unable to resolve the problem by using informal discussion.
2. You have to lodge your grievance within 90 days from the date on which you became aware of the official act or omission which adversely affects you.
3. You may be assisted or represented by a fellow employee or a representative or official from a recognised trade union.
4. It is important to complete all information accurately. When the form is completed, it must be given to the employee designated to facilitate grievances at your institution. The department will attach this form to the grievance documentation and it will be used through all stages of the grievance procedure.
5. At each stage where a person within the relevant structure of authority attempts to resolve the grievance, each party will complete the appropriate part of the form. You will be given an opportunity to respond to each and every comment.
6. At the conclusion of each stage of the grievance procedure, the department will provide you with a copy of the completed form.
7. Once the grievance has been resolved, you do not need to complete the rest of the form. The Human Resources Section of your department will then file the form. It will then be used to report statistics to the Public Service Commission annually.
8. You are required to complete Parts A and B of this form and to hand it to the designated employee who facilitates grievances at your institution. The employee will affix his/her signature in the block below part B of the form to indicate that the grievance has been received. Ensure that you receive a copy of the form where receipt of your grievance has been acknowledged.
9. Part C of the grievance form will be completed by the employer and yourself during the various stages where attempts will be made to resolve the grievance.

## Addendum A

**GRIEWE VORM****LEES ASSEBLIEF DIE VOLGENDE INSTRUKSIES VOORDAT U DIE VORM  
VOLTOOI**

1. Hierdie vorm moet gebruik word om 'n grief te rig (uitsluitende 'n beweerde onbillike arbeidspraktyk) wanneer u ontevrede is met 'n amptelike handeling of nalate en u was nie by magte om die probleem op te los deur informele bespreking van die probleem nie.
2. U moet u grief binne 90 dae vanaf die datum waarop u bewus geword het van die amptelike handeling of nalate wat u nadelig beïnvloed het, rig.
3. U mag bygestaan of verteenwoordig word deur 'n mede-werknemer of 'n verteenwoordiger of 'n beampte van 'n erkende werknemersorganisasie.
4. Dit is belangrik dat alle inligting korrek voltooi sal word. Nadat u die vorm voltooi het, moet u dit aan die aangewese werknemer wat griewe by u instansie fasiliteer, oorhandig. Die departement sal die vorm aan die dokumente wat betrekking het op die grief heg en dit sal gebruik word gedurende al die vlakke van die griewe prosedure.
5. By elke vlak waar 'n persoon binne die relevante gesagstruktuur poog om die grief op te los, sal elke party die betrokke deel van die vorm voltooi. U sal die geleentheid gebied word om op elke opmerking te reageer.
6. Na die voltooiing van elke vlak van die griewe prosedure, sal die departement aan u 'n afskrif van die voltooide vorm voorsien.
7. Sodra die grief opgelos is, is dit nie nodig dat u die vorm verder voltooi nie. Die Afdeling Menslike Hupbronne sal dan die vorm liasseer. Dit sal aangewend word ten einde jaarliks statistiek aan die Kommissie te verskaf.
8. U word versoek om Dele A en B van hierdie vorm te voltooi en dit aan die aangewese werknemer wat griewe by u instansie fasiliteer, te oorhandig. Die aangewese werknemer sal die vorm teken in die blok onder Deel B as bewys dat die grief ontvang is. Maak seker dat u 'n afskrif van die vorm ontvang nadat die aangewese werknemer ontvangs daarvan erken het.
9. Deel C van die griewe vorm sal deur uself en die werkgewer voltooi word op al die verskillende vlakke waar pogings aangewend was om u grief op te los.

**PART A: PERSONAL INFORMATION**

*To be completed by aggrieved employee:*

Initials and Surname : \_\_\_\_\_  
 PERSAL number : \_\_\_\_\_  
 Employing department : \_\_\_\_\_  
 Directorate : \_\_\_\_\_  
 Rank/Designation : \_\_\_\_\_  
 Date on which you became aware of  
 the official act or omission : \_\_\_\_\_  
 Contact numbers : Tel No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
 Name of representative (where applicable): \_\_\_\_\_  
 Contact numbers of representative : Tel No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
 Name of trade union (where applicable) : \_\_\_\_\_  
 Contact numbers of trade union : Tel No: \_\_\_\_\_ Fax No: \_\_\_\_\_

**PART B: DETAILS OF GRIEVANCE**

*To be completed by aggrieved employee:*

What are you aggrieved about? (If space below is not enough, please attach additional page(s)):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

What solution do you propose?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

SIGNED:

EMPLOYEE \_\_\_\_\_

DATE \_\_\_\_\_

Receipt of grievance form acknowledged and copy given to aggrieved employee

DESIGNATED EMPLOYEE \_\_\_\_\_

DATE \_\_\_\_\_

Name: \_\_\_\_\_

Rank: \_\_\_\_\_

**DEEL A: PERSOONLIKE INLIGTING***Om deur gegriefde werknemer voltooi te word*

Voorletters en van : \_\_\_\_\_  
 PERSAL nommer : \_\_\_\_\_  
 Werkgewende departement : \_\_\_\_\_  
 Direktooraat : \_\_\_\_\_  
 Rang/Titel : \_\_\_\_\_  
 Datum waarop u bewus geword het van die  
 amptelike handeling of nalate : \_\_\_\_\_  
 Kontaknommers : Tel No: \_\_\_\_\_ Faks No: \_\_\_\_\_  
 Naam van verteenwoordiger (waar van  
 toepassing) : \_\_\_\_\_  
 Kontaknommers van verteenwoordiger : Tel No: \_\_\_\_\_ Faks No: \_\_\_\_\_  
 Naam van vakbond (waar van toepassing): \_\_\_\_\_  
 Kontaknommers van vakbond : Tel No: \_\_\_\_\_ Faks No: \_\_\_\_\_

**DEEL B: BESONDERHEDE VAN GRIEF***Om deur gegriefde werknemer voltooi te word*

Waaroor is u gegrief? (Indien die spasie hieronder nie voldoende is heg asseblief addisionale bladsy(e) aan)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Watter oplossing stel u voor?:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

GETEKEN: \_\_\_\_\_  
 WERKNEMER DATUM

Ontvangs van griewe vorm erken en afskrif aan gegriefde werknemer gegee

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

AANGEWESE WERKNEMER DATUM

Naam:

Rang:

\_\_\_\_\_

**PART C: GRIEVANCE RESOLUTION: LEVELS****NOTES:**

- *This part of the form makes provision for various levels of authority to attempt to resolve the dispute. There are, however, no prescribed levels for the resolution of a grievance. Depending on the circumstances, one or more pages below need to be completed.*
- *If the grievance cannot be resolved up to the level of head of department, it has to be submitted to the executing authority (i.e. the page below that specifically refers to the executing authority has to be completed).*
- *The grievance must be dealt with by all the applicable levels (including the executing authority) within a period of 30 days, unless extended by agreement with the aggrieved employee.*

**DEEL C: OPLOSSING VAN GRIEWE: VLAKKE****NOTAS:**

- *Hierdie deel van die vorm maak voorsiening vir die verskillende vlakke van gesag wat betrokke is by die oplossing van griewe. Daar is egter geen spesifiek voorgeskrewe vlak waar 'n grief opgelos moet word nie. Afhangende van die omstandighede, moet een of meer van die bladsye hieronder voltooi word.*
- *Indien die grief op die vlak van hoof van departement nie opgelos kan word nie, moet dit na die uitvoerende gesag verwys word (i.e die bladsy hieronder wat spesifiek verwys daarna dat dit deur die uitvoerende gesag voltooi moet word.)*
- Die grief moet hanteer word deur al die toepaslike vlakke van gesag (insluitende die uitvoerende gesag) binne 'n periode van 30 dae, tensy deur ooreenkoms met die gegriefde werknemer verleng

(Part C continued)

**LEVEL: DESIGNATED EMPLOYEE** \_\_\_\_\_

*To be completed by the designated employee*

Name : \_\_\_\_\_  
 Designation : \_\_\_\_\_  
 Telephone No : \_\_\_\_\_  
 Fax No : \_\_\_\_\_

Was the grievance resolved? Yes  No

If yes, give details of agreement (if the space below is not enough please attach additional page(s))

\_\_\_\_\_  
 \_\_\_\_\_

SIGNED: \_\_\_\_\_  
 DESIGNATED EMPLOYEE DATE

*To be completed by employee*

Was the grievance resolved? Yes  No

Do you have any comments?

\_\_\_\_\_  
 \_\_\_\_\_

SIGNED: \_\_\_\_\_  
 EMPLOYEE DATE

(Deel C vervolg)

**VLAK: AANGEWESSE WERKNEMER***Om deur aangewese werknemer voltooi te word*

Naam : \_\_\_\_\_

Rang : \_\_\_\_\_

Telefoon No : \_\_\_\_\_

Faks No : \_\_\_\_\_

Is die grief opgelos? Ja  Nee 

Indien ja, verskaf besonderhede oor die ooreenkoms bereik (Indien die spasie hieronder nie voldoende is nie, heg asseblief addisionale bladsy(e) aan)

---



---



---

GETEKEN: \_\_\_\_\_  
AANGEWESSE WERKNEMER DATUM*Om deur werknemer voltooi te word*Is die grief opgelos? Ja  Nee 

Het u enige opmerkings?

---



---



---

GETEKEN: \_\_\_\_\_  
WERKNEMER DATUM



<b>(Part C continued)</b>	
<b>LEVEL: EXECUTING AUTHORITY</b>	
<i>To be completed by executing authority</i>	
<b>Decision in respect of grievance and reasons for decision (If the space below is not enough please attach additional page(s) )</b>	
<hr/> <hr/> <hr/> <hr/> <hr/>	
<b>SIGNED:</b>	<hr/>
<b>EXECUTING AUTHORITY</b>	<b>DATE</b>
<i>To be completed by aggrieved employee</i>	
<b>Was the grievance resolved?</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>If no, please explain why you are still dissatisfied:</b>	
<hr/> <hr/> <hr/>	
<b>SIGNED:</b>	<hr/>
<b>EMPLOYEE</b>	<b>DATE</b>
<i>Do you want the grievance to be referred to the Public Service Commission? Yes <input type="checkbox"/> No <input type="checkbox"/></i>	

(Deel C vervolg)

**VLAK: UITVOERENDE GESAG***Om deur uitvoerende gesag voltooi te word***Besluit met betrekking tot die grief en die redes vir die besluit (Indien die spasie hieronder nie voldoende is nie, heg asseblief addisionele bladsye aan)**

GETEKEN:

\_\_\_\_\_  
UITVOERENDE GESAG\_\_\_\_\_  
DATUM*Om deur die gegriefde werknemer voltooi te word*

Is die grief opgelos?

Ja

Nee

**Indien nee, verduidelik asseblief waarom u nog steeds ontevrede is (Indien die spasie hieronder nie voldoende is nie, heg asseblief addisionele bladsye aan)**

GETEKEN:

\_\_\_\_\_  
WERKNEMER\_\_\_\_\_  
DATUM*Wil u hê die grief moet verwys word na die Staatsdienskommissie? Ja  Nee*







Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001  
Publications: Tel: (012) 334-4508, 334-4509, 334-4510  
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504  
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737  
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001  
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510  
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504  
Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737  
Kaapstad-tak: Tel: (021) 465-7531



**dhsp&l**

Department:  
Human Settlements, Public Safety & Liaison  
North West Provincial Government  
REPUBLIC OF SOUTH AFRICA

3366 Bessemer str Telkom building  
Industrial site Mafikeng, 2746  
NWDC cnr. University Drive  
Private Bag X 2146, Mmabatho, 2735  
Tel: +27 (18) 391 0400/ 388 2461/387  
6000

**HUMAN RESOURCE MANAGEMENT  
PUBLIC SAFETY & LIAISON BRANCH**

Safety House 31-34 Molopo Road  
Mafikeng, 2746  
P/Bag X 19 Mmabatho 2735  
Tel: +27 (18) 388 1179  
Fax: +27 (08) 65495906

Enq. : S M Rabolele  
Tel No : 018 3881226

TO : MR. BDT MAHLAKOLENG  
ACTING HEAD OF DEPARTMENT

FROM : SUB-DIRECTORATE – HR ORGANISATIONAL STRATEGY & PLANNING

SUBJECT: REQUEST APPROVAL TO ADOPT AND UTILIZE PROVINCIAL SPECIAL LEAVE POLICY

**1. PURPOSE**

To seek approval from the Acting Head of Department for the Department of Human Settlements, Public Safety and Liaison (Public Safety and Liaison Branch) to adopt the Provincial Special Leave policy.

**2. BACKGROUND**

The department is presently in the process of developing its own departmental Special Leave policy in order to be able to regulate this type of leave and address issues raised by the Auditor General. The Acting Head of the Department is therefore requested to grant the Directorate: HRM approval to adopt and utilize the Provincial Special leave policy whilst in the process of developing its own.

**3. DELIBERATION**

Section 23.1 of the **Determination on Leave of Absence in the Public Service of 2009**, requires that the Head of the Department shall ensure that his or her department has adopted a special leave policy. It is therefore important for this office to have an approval to adopt and use the Provincial Special Leave policy to monitor the granting of Special Leave to employees within the department whilst still in the process of having Departmental policy developed. This will assist the department to address instances where the employer shall grant or not grant special leave to its employees. Presently management of Special Leave within the department is guided by the Provincial Special Leave policy.

**"Working together we can do more"**



**NORTH WEST PROVINCIAL ADMINISTRATION**

**CHAPTER 18**

**SPECIAL LEAVE POLICY**

**STATUTORY AUTHORISATION:** PUBLIC SERVICE REGULATION, 2001  
 PSCBC RESOLUTION 7/2000  
 BASIC CONDITIONS OF EMPLOYMENT ACT, 1997 (BCEA)  
 DETERMINATION ON LEAVE OF ABSENCE IN THE PUBLIC SERVICE

ITEM	PROVISION	MEASURES	GUIDELINES
I. Leave for Examination purpose	<ul style="list-style-type: none"> <li>▪ Special leave with full pay for preparation and writing of examinations.</li> </ul>	<ul style="list-style-type: none"> <li>▪ One (1) working day Special leave with full pay may be granted to an employee for each day on which he/she sits for an examination as specified in the official time table; and</li> <li>One (1) working day immediately preceding the day of the examination may be granted to enable an employee to prepare for such examination.</li> </ul>	<ul style="list-style-type: none"> <li>▪ This provision must be applied once only in respect of a study course/subject which an employee failed and which he/she has to repeat.</li> <li>▪ The field of study for which the examination leave is required, must broadly support the Public Service human resource development programmes, with the potential to enhance work performance.</li> </ul>



<ul style="list-style-type: none"> <li>▪ Special leave must not be granted for writing of class tests.</li> <li>▪ If the special leave granted precedes and succeeds a day of rest, such day(s) of rest (although to be recorded) must be disregarded when calculating the number of special leave days to be granted to the employee.</li> <li>▪ The examination time table shall always be attached to the special leave application.</li> </ul> <p>□ <b>Lowest level of delegation:</b> Line Managers</p>			
<ul style="list-style-type: none"> <li>▪ The course undertaken should:             <ul style="list-style-type: none"> <li>- <u>be intended to acquire critical scarce skills, guided by the Departmental Workplace Skills Plan..</u></li> <li>- link strategically to human resource management practices and programmes aimed at enhancing employment equity</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Special leave with full pay may be granted to an employee for the duration of his/her study period</li> </ul>	<p>Leave for:</p> <ul style="list-style-type: none"> <li>▪ Full time study (Local); or</li> <li>▪ Full-time study (International) <u>initiated by the employee.</u></li> </ul>	<p><b>II. Full Time Study leave :</b> Local or International (employee initiative)</p>

<p>Full Time Study leave : Local or International (employee initiative) .....<i>continue</i></p>	<p>and representativeness.</p> <ul style="list-style-type: none"><li>▪ For local full time study, possibilities of part-time studies with block attendance must be exhausted first</li><li>▪ For international studies, evidence must be available to the effect that local academic institutions cannot offer the course applied for.</li><li>▪ In the event a course offered by International Academic Institution is preferred to the one offered by the local academic institution, the HoD is to determine the merit of each case.</li><li>▪ In the event donor funding demands exchanging of courses overseas, the HoD is to decide on each case depending on the quality of such courses.</li><li>▪ Documentary proof of a field of study for which special leave is required including the total number of leave days required, must be submitted together with special</li></ul>
--	---

<p>Full Time Study leave : Local or International ( employee initiative ) ....<i>continue</i></p>			<p>leave application.</p> <p><input type="checkbox"/> <b>Lowest level of delegation:</b> Head of Department</p>
<p>III. Block attendance including research work as a requirement towards completion of employee's studies.</p>	<p>Leave for:</p> <ul style="list-style-type: none"> <li>▪ Block attendance and /or including preparatory and research work as a requirement towards completion of employee's studies.</li> </ul>	<ul style="list-style-type: none"> <li>▪ An employee must apply to utilise annual leave days to his/her credit, capped leave inclusive, for the duration of his/ her study period.</li> <li>▪ Special leave with full pay up to a <u>maximum of 15 working days per leave cycle</u> may be granted where annual leave credit is not sufficient.</li> <li>▪ Unpaid leave may be granted where annual leave and special leave days are not sufficient.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Documentary proof of a field of study for which special leave is required including the total number of leave days required, must be submitted together with special leave application.</li> <li>▪ The provision must be applied once only in cases where a person does preparatory and/or research work with a view to writing an end of year examination pertaining to a study course which an employee failed and which he/she has to repeat</li> </ul> <p><input type="checkbox"/> <b>Lowest level of delegation:</b> Head of Department</p>

<p><b>IV: Part-time study and/or attendance of classes or lectures during official hours</b></p>	<p><input type="checkbox"/> Time off for attendance of classes/lectures during official hours or on part-time basis.</p>	<ul style="list-style-type: none"> <li>▪ Where the absence period covers a full working day, an employee must apply to utilise his/her annual leave days to cover the absence.</li> <li>▪ When the employee attends classes / lectures anytime during the normal official hours of work,(as prescribed in the approved Provincial Working Time policy i.e. 08h00 – 16h30) hours accumulating to 8hrs must be converted to one(1) working day which will be taken off the annual leave days/credit.</li> <li>• Unpaid leave may be granted where the annual leave credits have been exhausted.</li> <li>• When the employee attends classes or lectures 30 minutes immediately before his/her official knock-off time, one day Special leave with full pay may be granted for every full eight hours an employee is so released from duty.</li> </ul>	<ul style="list-style-type: none"> <li>▪ A letter confirming attendance of classes / lectures must be submitted as proof.</li> <li>▪ Permission must be obtained to utilize official hours for study purpose.</li> <li>▪ A register to record time-off must be kept</li> <li><input type="checkbox"/> Lowest level of delegation: Line Managers.</li> </ul>
--	--	--	---

<p>V. Resettlement leave</p>	<p>Special leave with full pay for official transfer of an employee at state expense.</p>	<p>One (1) working day special leave with full pay limited to a maximum of three (3) working days may be granted to an employee, on request.</p>	<p>Circumstances for which leave may be granted: to</p> <ul style="list-style-type: none"> <li>▪ arrange accommodation;</li> <li>▪ supervise the packing/loading and unpacking/unloading of personal effects;</li> <li>▪ arrange school for children; connect/disconnect lights/water.</li> </ul> <p><input type="checkbox"/> Lowest level of delegation: Line Managers</p>
------------------------------	---	--	---

ITEM	PROVISION	MEASURES	GUIDELINES
VI. Participation in sports, arts and culture.	Special leave with full pay to an employee when he/she is selected by a recognized association to take part or represent the Province and/or South Africa.	<ul style="list-style-type: none"> <li>▪ One (1) working day special leave with full pay for each day taken as annual leave with full pay by an employee (i.e 50/50) may be granted.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Documentary proof from the Executive office of such association to be submitted with the special leave application.</li> <li>□ <b>Lowest level of delegation:</b> Director or equivalent.</li> </ul>
VII. Military Service /National call	Special leave with full pay when an employee is called up in terms of any regulation or obligation pertaining to the National Defence Force and/or National call.	<ul style="list-style-type: none"> <li>▪ Special leave with full pay may be granted for the total number of days required by an employee.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Documentary proof must be submitted with the special leave application.</li> <li>▪ <b>Lowest level of delegation:</b> Director or equivalent.</li> </ul>
VIII. Natural disaster	Special leave with full pay may be granted to an employee if the area in which he/she is staying or working is struck by a natural disaster.	<ul style="list-style-type: none"> <li>▪ Special leave with full pay may be granted for the total number of days as will be determined by the Head of department.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Head of department must be satisfied that it is impossible for the employee concerned at that time to report for duty.</li> <li>▪ <b>Lowest level of delegation:</b> Head of department.</li> </ul>

AMENDMENT APPROVED : 27/02/2007

ITEM	PROVISION	MEASURES	GUIDELINES
XI. Participation in interviews as a candidate	Special leave with full pay when an employee has to attend an interview at any Public Service department away from employee's head quarters.	<ul style="list-style-type: none"> <li>▪ Special leave with full pay may be granted for the date of the interview.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Proof of the invitation to attend the interview must be submitted with the leave application form.</li> <li>▪ <b>Lowest level of delegation:</b> Line Managers</li> </ul>
X. Days or time-off not to be recorded as leave.		<ul style="list-style-type: none"> <li>▪ Actual time-off with full pay may be granted to an employee:               <ul style="list-style-type: none"> <li>(a) when he/she has to appear as a witness in a :-                   <ul style="list-style-type: none"> <li>(i) Criminal court case.</li> <li>(ii) Civil court case.</li> <li>(iii) Military court case.</li> <li>(iv) Before a Commission of Enquiry appointed by the State.</li> <li>(v) Labour Court.</li> <li>(vi) At CCMA and its Bargaining Councils.</li> </ul> </li> <li>(b) when he/she has to appear as a Defendant or co-defendant in a Civil Court Case arising from his/her official duties in which state has direct interest.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Documentary proof of a specific event for which time-off is requested. must be submitted..</li> <li>▪ <b>Lowest level of delegation:</b> Line Managers</li> </ul>
			<ul style="list-style-type: none"> <li>▪ <b>Lowest level of delegation:</b> Line Managers</li> </ul>

		<p>(c) When he/she assist or represent another employee during a disciplinary or misconduct inquiry or during investigation into a complaint or grievance and during conciliation or arbitration of a dispute.</p> <p>(d) When he/she is involved in conciliation and/or arbitration cases, either as a witness, or chairperson.</p> <p>(e) When he/she attends short courses, congresses, symposia, seminars, conferences, workshops and study tours presented by own or some other department or the private sector and in respect of which a permission has been granted to attend such courses during official hours.</p> <p>(f) When he/she goes on full time study leave locally or internationally for occupation specific courses as inherent requirements of posts e.g Nursing plus Medical and Allied programs.</p>	<ul style="list-style-type: none"> <li>▪ <b>Lowest level of delegation:</b> Line Managers</li>   <li>▪ <b>Lowest level of delegation:</b> Line Managers</li>   <li>▪ <b>Lowest level of delegation:</b> Line Managers</li>   <li>□ <b>Lowest level of delegation:</b> Head of Department</li> </ul>
--	--	---	---



<ul style="list-style-type: none"> <li>▪ Research undertaken must be completed within a period of three (3) months.</li> </ul>	<ul style="list-style-type: none"> <li>□ <b>Lowest level of delegation:</b> Head of Department</li> </ul>	<ul style="list-style-type: none"> <li>□ <b>Lowest level of delegation:</b> Head of Department</li> </ul>	<ul style="list-style-type: none"> <li>□ <b>Lowest level of delegation:</b> Line Managers</li> </ul>
<ul style="list-style-type: none"> <li>▪ Research undertaken must be completed within a period of three (3) months.</li> </ul>	<ul style="list-style-type: none"> <li>□ <b>Lowest level of delegation:</b> Head of Department</li> </ul>	<ul style="list-style-type: none"> <li>□ <b>Lowest level of delegation:</b> Head of Department</li> </ul>	<ul style="list-style-type: none"> <li>□ <b>Lowest level of delegation:</b> Line Managers</li> </ul>
<ul style="list-style-type: none"> <li>▪ Research undertaken must be completed within a period of three (3) months.</li> </ul>	<ul style="list-style-type: none"> <li>□ <b>Lowest level of delegation:</b> Head of Department</li> </ul>	<ul style="list-style-type: none"> <li>□ <b>Lowest level of delegation:</b> Head of Department</li> </ul>	<ul style="list-style-type: none"> <li>□ <b>Lowest level of delegation:</b> Line Managers</li> </ul>

- Human Resource Managers are advised to determine procedures to be followed in the application and implementation of leave provisions in their respective departments.

**MONITORING AND EVALUATION**

The Head of Department or his/her delegate shall monitor and ensure adherence to the leave provisions and report on specific cases when required to do so.  
If and when any provision of this policy is amended, the amended provision will supersede the previous one.

\*\*\*\*\*

**AMENDMENTS:**

First amendment : Approved: 27/02/2007 (Date of effect : 27/02/2007)

AMENDMENT APPROVED : 27/02/2007



**11 Special leave**

- 11.1 If a department does not have a written policy on special leave, an executing authority shall negotiate a policy in the relevant bargaining council.
- 11.2 The policy shall indicate
- (a) the circumstances under which the executing authority shall authorise special leave at full pay,
  - (b) if any, those responsibilities other than work for which the employer shall not require an employee to utilise leave, and
  - (c) as far as possible, events for which the executing authority shall not provide such leave.
- 11.3 The policy may provide paid leave for family requirements such as childcare, study, examinations, military service, resettlement due to a transfer, collective bargaining or other labour-relations requirements, participation in sports, sabbaticals where appropriate, or any other purpose.

**Table 1. Vacation leave by category of employee**

*Note: Holidays include weekends as well as public holidays. Service includes continuous service in any capacity, including time spent suspended during a disciplinary hearing and on authorised leave.*

Category of employee	vacation leave days per year, including both work days and days of rest that comply with paragraph 3.2
<i>(a) employees in educational or training institutions</i>	
(i) who have no duties when the institution closes for holidays	12
(ii) who remain on duty for part of the time when the institution closes for holidays	12 days plus half the days the employee remains on duty up to an additional 25 days per year
<i>(b) Nursing personnel in institutions that provide service around the clock</i>	
(i) Registered nurses appointed before January 1, 1968	54*
(ii) Registered or enrolled nurses appointed on or after January 1, 1968	
- with at least ten years' service	52*
- with under ten years' service	46*
(iii) nursing assistants appointed before January 1, 1968	48*
(iv) nursing assistants appointed after January 1, 1968	
- with at least ten years' service	46*
- with under ten years' service	40*
(v) student and pupil nurses	30
(vi) part-time nurses	30
<i>(c) employees appointed before July 1, 1966</i>	38
<i>(d) other employees:</i>	
(i) with at least ten years' service	36
(ii) with under ten years' service	30

\* If the employee serves in a lecturing capacity at a training college for nurses, the employer shall reduce the leave by one day for each public holiday on which the employee does not work.

**III. Medical Assistance****1 Assistance to employees In South Africa**

- 1.1 The employer shall pay two thirds of an employee's normal subscription to a registered medical scheme, up to a maximum monthly payment.
- 1.2 The maximum monthly payment shall equal the value, with inflation, of R672 in April 1998. The Minister shall revise the employer's maximum contribution on April 1 every year by an amount equivalent to the increase in the medical Consumer Price Index.
- 1.3 The employer shall pay a subscription only directly to a registered medical scheme.
- 1.4 If an employee joins a registered medical scheme that requires payment of a subscription in advance, in the first month the employer shall pay both the advance subscription and the monthly subscription.
- 1.5 If an employee takes unpaid leave, her or his department shall continue to pay the employer contribution to the employee's medical scheme as long as the employee pays her or his contribution.

**2 Medical assistance at retirement or termination of services**

- 2.1 The employer shall continue medical assistance as provided in Table 1 to an employee who leaves the public service, if
  - (a) the employee belonged to a registered medical scheme for the year ending on the date she or he left the public service, and
  - (b) the employee leaves the public service because of
    - (i) retirement, including early retirement where it does not result from misconduct or incapacity,
    - (ii) death, or
    - (iii) discharge as a result of ill health or injury on duty.
- 2.2 If an employee or pensioner dies and her or his remaining spouse becomes a principal member of the relevant medical scheme, the employer shall transfer the benefits provided under Table 1 to the spouse.
- 2.3 This agreement shall not affect medical benefits for people who left the public service before December 1, 1993.

**RESOLUTION NO 7 OF 2000**

**IMPROVEMENT IN THE CONDITIONS OF SERVICE  
OF PUBLIC SERVICE EMPLOYEES FOR 2000/2001  
FINANCIAL YEAR**

**PUBLIC SERVICE CO-ORDINATING BARGAINING  
COUNCIL (PSCBC)**

---

**PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL (PSCBC)**

**RESOLUTION NO. 7 OF 2000**

**IMPROVEMENT IN THE CONDITIONS OF SERVICE OF PUBLIC SERVICE EMPLOYEES  
FOR 2000/2001 FINANCIAL YEAR**

---

**The employer and employee parties agree on the terms set out below:**

**1. OBJECTIVES:**

- 1.1 To establish processes to develop new, more equitable benefits, career paths and pay progression for all employees in the public service.
- 1.2 To establish a framework for restructuring in the public service.
- 1.3 To provide for the annual wage increase for public service employees for the 2000/2001 financial year.

**2. SCOPE:**

- 2.1 This agreement applies to the employer and employees:
  - a) who are employed by the State; and
  - b) who fall within the registered scope of the PSCBC.

**3. MEDICAL AID RESTRUCTURING:**

- 3.1 A joint task team of employer and employee parties shall be established to investigate:
  - a) mechanisms to introduce collective buying power;
  - b) extending medical assistance to all employees in the public service;
  - c) the feasibility of capping and/or de-linking the present medical aid contribution from the medical price index;
  - d) administrative mechanisms to control and manage costs for the employer and employee;
  - e) measures and resources for the treatment of HIV/AIDS in respect of affected employees and their dependants;
  - f) how medical aid schemes can strengthen the public health system in the country; and
  - g) post retirement medical aid.

3.2 The joint task team shall complete its work by 31<sup>st</sup> January 2001 and submit developed recommendations to the PSCBC for negotiation by 15<sup>th</sup> February 2001.

**4. POLICY ON HIV/AIDS:**

4.1 A joint task team of employer and employee parties shall be established to investigate:

- a) the development of an HIV/ AIDS policy;
- b) the elimination of discrimination against people living with HIV/ AIDS; and
- c) the development of appropriate training and materials for people who work with those affected by HIV/ AIDS.

4.2 The joint task team shall complete its work by 31<sup>st</sup> January 2001 and submit developed recommendations to the PSCBC for negotiation by 15<sup>th</sup> February 2001.

**5. HOUSING AND ACCOMMODATION RESTRUCTURING:**

5.1 A joint task team of employer and employee parties shall be established to investigate:

- a) possibilities on how the employer's collective buying power can be harnessed to obtain better and affordable arrangements with financial institutions. Further, to develop criteria for the evaluation of financial institutions that will provide mortgage bonds for public servants;
- b) measures to address the needs of the low-income and rural-based employees together with those based in tribal trust land, inner city and peri-urban areas as far as the housing benefit is concerned;
- c) measures to enable new employees with a continuous twelve-month period of service to obtain a housing subsidy;
- d) all allowances related to housing and accommodation with a view of extending the same to all employees;
- e) the current accommodation benefits provided by the employer; and
- f) the possible use of individual's actuarial value with the Government Employee Pension Fund (GEPF), to be accessed for collateral purposes.

5.2 The joint task team shall complete its work by 31<sup>st</sup> January 2001 and submit developed recommendations to the PSCBC for negotiation by 15<sup>th</sup> February 2001.

**6. PENSION RESTRUCTURING:**

6.1 A joint task team of employer and employee parties shall be established to investigate:

- a) advantages and disadvantages of the present system in relation to a Pay as You Go (PAYG) and any other pension system;



- b) a reduction in the employer's contribution to the Government Employees Pension Fund (GEPP) to an agreed percentage. The purpose of this is to use funds accrued from such reduction towards the development of social services and job security in the public service;
- c) the implications of the alleged mismanagement of the Venda pension fund on the affected employees; and
- d) the buying back of pensions at favourable rates to assist those employees who were previously denied access to the pension fund as well as all employees in terms of previous collective agreements.

6.2 The joint task team shall complete its work by 31<sup>st</sup> May 2001 and submit developed recommendations to the PSCBC for negotiation by 15<sup>th</sup> June 2001.

## **7. LEAVE:**

### **7.1 Annual leave:**

- a) The annual leave dispensation in this agreement shall provide a framework that may be further refined, subject to service delivery requirements of any sector.
- b) Employees shall accrue leave days per annual leave cycle, which shall be granted according to Annexure A.
- c) A period of 10 working days leave per annual leave cycle shall be a compulsory requirement. The utilisation of this leave must take into account sectoral service delivery requirements.
- d) The remaining days shall be utilised within an 18 month period. All remaining unused leave shall fall away thereafter. However, where leave due is not taken due to the employer's service delivery requirements, such leave shall be paid at the end of the 18 month period.
- e) The departments shall not unreasonably refuse to grant leave to employees who apply, taking into consideration service delivery requirements.

### **7.2 Annual leave accruals and leave payouts:**

- a) The cash value in respect of unused annual leave credits shall be payable at termination of service.
- b) For purposes of leave payouts, employees shall be paid a maximum of 22 days.

### **7.3 Payout of annual leave accrued before 1<sup>st</sup> July 2000:**

- a) Employees, who in terms of the dispensation applicable prior to 1<sup>st</sup> July 2000, have earned audited leave accruals in terms of that dispensation, shall retain the same. The employer shall pay such accrued leave on:

- i) death;
  - ii) retirement; or
  - iii) medical boarding.
- b) Parties to the PSCBC shall negotiate the method of calculating the value and payment of the audited accrued leave.
- c) Where there are no records an audit shall be conducted by the employer in order to determine whether there are periods which are audited or unaudited. Should there be a period which is not audited and a period which is audited then the leave payout shall be paid on the basis of 6 days per completed year of service up to 100 days for unaudited leave, plus the value of the audited leave.
- d) The employer shall allow employees to utilise their accrued leave credits accrued prior to 1<sup>st</sup> July 2000. Departments shall develop procedures and measures to ensure that accrued leave is utilised in a manner that does not detrimentally affect service delivery.

#### **7.4 Normal sick leave:**

- a) Employees shall be granted 36 working days sick leave with full pay in a three-year cycle.
- b) The employer shall require a medical certificate from a registered medical practitioner if three or more consecutive days are taken as sick leave.
- c) Practitioners shall, for this purpose, include all practitioners as defined by the Health Professionals Council of South Africa (Medical and Dental Practitioners).
- d) An employee shall produce a medical certificate at the request of the employer where a pattern has been established.
- e) Unused sick leave credits shall lapse at the end of a three-year cycle.

#### **7.5 Disability management leave:**

##### **7.5.1 Temporary disability leave:**

- a) An employee whose normal sick leave credits in a cycle have been exhausted and who, according to the relevant practitioner, requires to be absent from work due to disability which is not permanent, may be granted sick leave on full pay provided that:
  - i) her or his supervisor is informed that the employee is ill; and

- ii) a relevant registered medical and/or dental practitioner has duly certified such a condition in advance as temporary disability except where conditions do not allow.
- b) The employer shall, during 30 working days, investigate the extent of inability to perform normal official duties, the degree of inability and the cause thereof. Investigations shall be in accordance with item 10(1) of Schedule 8 in the Labour Relations Act of 1995.
- c) The employer shall specify the level of approval in respect of applications for disability leave.

#### **7.5.2 Permanent disability leave:**

- a) Employees whose degree of disability has been certified as permanent shall, with the approval of the employer, be granted a maximum of 30 working days paid sick leave, or such additional number of days required by the employer to finalise the process set out in (b) and (c) below.
- b) The employer shall, within 30 working days, ascertain the feasibility of:
  - i) alternative employment; or
  - ii) adapting duties or work circumstances to accommodate the disability.
- c) If both the employer and the employee are convinced that the employee will never be able to perform any type of duties at her or his level or rank, the employee shall proceed with application for ill health benefits in terms of the Pension Law of 1996.

#### **7.6 Leave for occupational injuries and diseases:**

- a) Employees who, as a result of their work, suffer occupational injuries or contract occupational diseases shall be granted occupational injury and disease leave for the duration of the period they cannot work.
- b) If an employee suffers a work-related injury as a result of an accident involving a third party, the employer may grant her or him occupational injury and disease leave provided that the employee:
  - i) brings a claim for compensation against the third party; and
  - ii) undertakes to use compensation (in terms of the Compensation for Occupational Injuries and Diseases Act of 1993) received to recompense as far as possible for the costs arising from the accident.
- c) The employer shall be obliged to take reasonable steps to assist an employee to claim compensation according to (b) above.

---

**7.7 Parental leave:****7.7.1 Maternity Leave:**

- a) An employee shall receive four months paid maternity leave for each confinement.
- b) If an employee has utilised all her maternity leave, and wishes to extend the leave as a result of complications, she shall:
  - i) utilise available vacation leave; and/or
  - ii) receive up to 184 days of unpaid leave; and/or
  - iii) utilise any sick leave due to her.
- c) An employee who experiences a miscarriage, still birth or termination of pregnancy after starting paid maternity leave:
  - i) shall be entitled to 6 weeks paid leave; and
  - ii) thereafter she may utilise sick leave for days taken off as a result of the miscarriage, still birth or termination of pregnancy.

**7.7.2 Adoption leave:**

- a) An employee who adopts a child who is younger than two years shall qualify for adoption leave to a maximum of 45 working days. Thereafter the provisions of 7.7.1 (b) (i) and (ii) shall apply.
- b) If both spouses or life partners are employed in the public service, both partners will qualify for adoption leave provided that the combined leave taken does not exceed the 45 days in (a) above.

**7.7.3 Family responsibility leave:**

- a) Employees shall be granted 3 days leave per annual leave cycle for utilisation if:
  - i) the employee's spouse or life partner gives birth to a child; or
  - ii) the employee's child, spouse, or life partner is sick.
- b) Employees shall be granted 5 days leave per annual leave cycle for utilisation if:
  - i) the employee's child, spouse or life partner dies; or
  - ii) an employee's immediate family member dies.

- c) The amount of family responsibility leave taken according to (a) and/or (b) above shall not exceed 5 days.
- d) Employees who have used all their family responsibility leave shall:
  - i) use available vacation leave; and/or
  - ii) use up to 84 days of unpaid leave.

**7.8 Special leave:**

- a) The employer shall negotiate a policy in the relevant bargaining council.
- b) This policy shall indicate:
  - i) the circumstances or responsibilities under which the employer shall authorise special leave with full pay;
  - ii) as far as possible, events for which the employer shall not provide such leave.
- c) The policy may provide paid leave for such requirements such, as study, examinations, military service, re-settlement due to a transfer, collective bargaining or other labour-relations requirements, participation in sports, sabbaticals where appropriate, or any other purpose.

**7.9 Leave for office bearers or shop stewards of recognised employee organisations:**

- a) Office bearers or shop stewards of recognised employee organisations shall receive up to 10 days paid leave per annum for activities related to her or his union position.

**7.10 Unpaid leave:**

- a) If an employee has utilised all her or his paid vacation leave, the employer may grant her or him unpaid vacation leave. Only in exceptional cases shall the employer grant more than 184 days of unpaid vacation leave in a period of 18 months.
- b) An employee shall utilise unpaid leave for absence from work due to:
  - i) arrest, imprisonment or appearance in court on a criminal charge that leads to a conviction; or
  - ii) a criminal sentence.

**8. PAY PROGRESSION:**

- 8.1 The present rank and leg promotion system shall be terminated by 1<sup>st</sup> July 2001 or earlier if a new pay progression system is agreed to before that date.
- 8.2 Educators shall receive a once-off, non-pensionable bonus of R850-00 in addition to the annual general salary increase.
- 8.3 Employees shall receive R850-00 across the board if a pay progression system is not agreed to and implemented by 1<sup>st</sup> July 2001. If a pay progression system is not agreed to in subsequent years the amount of R850-00 shall be increased according to inflation.
- 8.4 The backlog of rank and leg promotions shall be paid within 4 years.
- 8.5 The employer shall fund research, development and related costs in respect of a new pay progression system.
- 8.6 The parties shall set up career paths for every occupation, which shall define:
- a) grounds for promotion to higher salary levels, which must include both an improvement in competencies and good performance;
  - b) the grounds for movement into occupations on the same salary level;
  - c) competencies required for each salary level;
  - d) procedures to assess employees' competencies at each salary level; and
  - e) other requirements for promotion.
- 8.7 The parties shall establish training programmes that enable employees to obtain relevant competencies.
- 8.8 The employer shall provide sufficient funds per sector for research to assist in the definition of career paths.
- 8.9 Each sector shall define the competencies required for each level in career paths, taking into account new policies and service requirements.

**9. COMMON PAY DATE FOR PUBLIC SERVANTS:**

- 9.1 A joint task team of employer and employee parties shall be established to investigate the possibility of such a pay date in the different sectors.
- 9.2 The joint task team shall complete its work by 31<sup>st</sup> January 2001 and submit developed recommendations to the PSCBC for negotiation by 15<sup>th</sup> February 2001.

**10. PAYMENT OF BIRTHDAY BONUS:**

10.1 Employees whose birthdays fall between January and March of each year shall receive their 13<sup>th</sup> cheque on their birthday month and not in April of each year.

10.2 The above shall be phased in over a period of 3 years.

**11. PAYMENT OF 13<sup>TH</sup> CHEQUE TO EMPLOYEES:**

11.1 The 13<sup>th</sup> cheque shall be equal to one month's salary and all contribution obligations on the parties in this regard shall lapse.

**12. WAGE INCREASE FOR 2000/2001 FINANCIAL YEAR:**

12.1 The annual wage increase for the 2000/2001 financial year shall be an average of 6.5% of which 0.5% shall be paid on a sliding scale according to Annexure B.

**13. IMPLEMENTATION DATE:**

13.1 The implementation date of this agreement shall be 1<sup>st</sup> July 2000.

**14. DISPUTE RESOLUTION:**

14.1 Disputes about the interpretation or application of this agreement shall be dealt with according to the dispute resolution procedure of the PSCBC.

THIS DONE AND SIGNED AT \_\_\_\_\_

OF THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2000

ON BEHALF OF THE STATE AS EMPLOYER

	Name	Signature
State as employer		

ON BEHALF OF EMPLOYEE PARTIES

Employee party	Name	Signature
DENOSA		
HOSPERSA		
NAPTOSA		
NUPSAW		
NPSWU		
NEHAWU		
PAWUSA		
POPCRU		
PSA		
SADTU		
SAPU		
SAOU		