



the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

DEPARTMENTAL POLICY ON TERMINATION OF SERVICES

Version 2
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1. DEFINITIONS

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|-------------------------|--|
| HOD | Head of Department. |
| Department (DR&PW) | Department of Roads and Public Works. |
| Head of the Directorate | Means the Senior Manager responsible for a Program. |
| Termination of Service | Refers to any ending of the employment relationship. |
| Notice of Termination | In this context refers to the notice provided by an employer stating the date on which an employee's or employees' contract of employment will end. |
| Severance Package | A bundle of pay and benefits offered to an employee upon being laid off from the public service. The amount of money received is usually based on the length of service prior to termination, and may include payment for unused vacation and sick days, and unreimbursed business expenses. |
| Severance Pay | Compensation that the department will offer to someone who is about to lose his or her job. |

2. INTRODUCTION

2.1 The purpose of this policy is to set guide-lines and provisions regarding the termination of service in the Department and to establish conditions under which various termination options may be applicable.

2.2 An employer may terminate an employee's employment if there is (a) a **valid reason** to terminate; meaning the reason to terminate is related to the worker's conduct or capacity or operational requirement of the business and (b) **proper procedure** was followed, meaning that the employer has used fair criteria in selecting who is to be terminated.

2.3 Section 37 of the Basic Conditions of Employment Act provides that termination of employment at the instance of a party to the contract may be terminated only on a notice of not less than:

2.3.1 One week, if the employee has been employed for six months or less.

2.3.2 Two weeks, if the employee has been employed for more than six months but not more than one year.

2.3.4 Four weeks, if the employee has been employed for one year or more.

- 2.4 That these notice periods are the minimum and may not be shortened by any agreement. However, section 37 (2) (b) does provides that a collective agreement may permit the notice period of four weeks to be reduced to not less than two weeks.
- 2.5 The employer may not impose on the employee a notice period that does not also equally apply to the employer. In other words, if the employment contract stipulates that the employee must give 2 months' notice for termination of the contract, then the employer must also give the employee 2 months' notice if the employer wishes to terminate the contract or dismisses the employee.
- 2.6 The Act stipulates further that notice of termination of a contract of employment must be given in writing except when it is given to or by any illiterate employee.
- 2.7 Notice of termination of employment, when given by the employer, must not be given during any period of leave to which the employee is entitled in terms of chapter 3 of the Basic Conditions of Employment Act, and may not run concurrently with any period of leave to which the employee is entitled, except sick leave.
- 2.8 Put differently, if an employer dismisses an employee, and the employee has annual leave due to him, the employer may not require that the dismissed employee take the outstanding annual leave during the period of notice.
- 2.9 The employer is required to pay out the employee for this leave. However should the employee require sick leave during a period of notice, and he/she has sick leave days available, then the employee is entitled to take paid sick leave during a period of notice.

3. REGULATORY FRAMEWORK

- 3.1 The Constitution of the Republic of South Africa Act, Act No. 108 of 1996, sections 215 and 217.
- 3.2 The Public Finance Management Act (The PFMA), Act No. 1 of 1999 (as amended by Act no 29 of 1999):
- 3.3 Section 38 dealing with general responsibilities of accounting officers; and specifically subsection 38 (1)(a)(i), 38(1)(b),38(1)(d),38(1)(h); and
- 3.4 Section 45 dealing with the responsibilities of other officials.
- 3.5 The Basic Conditions of Employment Act, Act No. 107 of 1997.
- 3.6 The Pension Funds Act, Act No. 24 of 1956, as amended by the following:
- 3.6.1 The Finance Act 81 of 1957 – Government Notice 1026 in Government Gazette 5907, dated 9 July 1957. Commencement date: 9 July 1957.

- 3.6.2 The Finance Act 80 of 1959 – Government Notice 1035 in Government Gazette 6255, dated 6 July 1959. Commencement date: 6 July 1959.
- 3.6.3 The Inspection of Financial Institutions Act 68 of 1962 – Government Notice 963 in Government Gazette 264, dated 20 June 1962. Commencement date: 20 June 1962.
- 3.6.4 The Second Finance Act 58 of 1966 – Government Notice 1713 in Government Gazette 1577, dated 28 October 1966. Commencement date: 28 October 1966.
- 3.6.5 The Financial Institutions Amendment Act 65 of 1968 – Government Notice 1120 in Government Gazette 2107, dated 26 June 1968. Commencement date: 26 June 1968.
- 3.6.6 The Financial Institutions Amendment Act 80 of 1969 – Government Notice 1042 in Government Gazette 2446, dated 25 June 1969. Commencement date: 25 June 1969.
- 3.6.7 The Financial Institutions Amendment Act 23 of 1970 – Government Notice 379 in Government Gazette 2661, dated 9 March 1970. Commencement date: 9 March 1970.
- 3.6.8 The Financial Institutions Amendment Act 91 of 1972 – Government Notice 1126 in Government Gazette 3594, dated 28 June 1972. Commencement date: 28 June 1972.
- 3.6.9 The Financial Institutions Amendment Act 101 of 1976 – Government Notice 1236 in Government Gazette 5217, dated 23 July 1976. Commencement date: 1 August 1976 [Proc. 139, Gazette No. 5236, dated 30 July 1976].
- 3.6.10 The Financial Institutions Amendment Act 94 of 1977 – Government Notice 1173 in Government Gazette 5624, dated 1 July 1977. Commencement date: 1 July 1977.
- 3.6.11 The Financial Institutions Amendment Act 80 of 1978 – Government Notice 1264 in Government Gazette 6060, dated 21 June 1978. Commencement date: 21 June 1978.
Financial Institutions Amendment Act 103 of 1979 – Government Notice 1531 in Government Gazette 6568, dated 13 July 1979. Commencement date: 13 July 1979.
- 3.6.12 The Financial Institutions Amendment Act 99 of 1980 – Government Notice 1526 in Government Gazette 7151, dated 1 August 1980. Commencement date: 1 August 1980.
- 3.6.13 The Financial Institutions Amendment Act 82 of 1982 – Government Notice 1123 in Government Gazette 8240, dated 9 June 1982. Commencement date: 9 June 1982.
- 3.6.14 The Corporation for Public Deposits Act 46 of 1984 – Government Notice 644 in Government Gazette 9149, dated 30 March 1984. Commencement date: 31 March 1984.

- 3.6.15 The Financial Institutions Amendment Act 86 of 1984 – Government Notice 1480 in Government Gazette 9313, dated 18 July 1984. Commencement date: 18 July 1984, unless otherwise indicated.
- 3.6.16 The Financial Institutions Amendment Act 50 of 1986 – Government Notice 1030 in Government Gazette 10248, dated 28 May 1986. Commencement date: 28 May 1986.
- 3.6.17 The Financial Institutions Amendment Act 51 of 1988 – Government Notice 987 in Government Gazette 11313, dated 20 May 1988. Commencement date: 20 May 1988.
- 3.6.18 The Financial Institutions Second Amendment Act 54 of 1989 – Government Notice 1045 in Government Gazette 11893, dated 26 May 1989. Commencement date: 30 June 1989 [Proc. R99, Gazette No. 11977, dated 30 June 1989].
- 3.6.19 The Financial Institutions Amendment Act 53 of 1989 – Government Notice 1044 in Government Gazette 11892, dated 26 May 1989. Commencement date: 1 October 1989 [Proc. 168, Gazette No. 12110, dated 29 September 1989].
- 3.6.20 The Financial Institutions Amendment Act 64 of 1990 – Government Notice 1440 in Government Gazette 12564, dated 29 June 1990. Commencement date: 1 September 1990 [Proc. 159, Gazette No. 12715, dated 31 August 1990].
- 3.6.21 The Financial Services Board Act 97 of 1990 – Government Notice 1600 in Government Gazette 12620, dated 11 July 1990. Commencement date: 1 April 1991 [Proc. 29, Gazette No. 13094, dated 28 March 1991].
- 3.6.22 The Financial Institutions Amendment Act 54 of 1991 – Government Notice 1132 in Government Gazette 13246, dated 22 May 1991. Commencement date: 30 May 1991 [Proc. 48, Gazette No. 13273, dated 30 May 1991].
- 3.6.23 The Financial Institutions Second Amendment Act 119 of 1991 – Government Notice 1513 in Government Gazette 13364, dated 10 July 1991. Commencement date: 23 August 1991 [Proc. 80, Gazette No. 13471, dated 23 August 1991].
- 3.6.24 The Financial Services Board Amendment Act 41 of 1992 – Government Notice 1069 in Government Gazette 13918, dated 15 April 1992. Commencement date: 1 May 1992 [Proc. 38, Gazette No. 13943, dated 30 April 1992].

- 3.6.25 The Financial Institutions Amendment Act 7 of 1993 – Government Notice 367 in Government Gazette 14624, dated 5 March 1993. Commencement date: 1 June 1993 [Proc. R46, Gazette No. 14847, dated 1 June 1993].
- 3.6.26 The Financial Institutions Second Amendment Act 104 of 1993 – Government Notice 1200 in Government Gazette 14943, dated 1 July 1993. Commencement date of s. 21 to 23 and 25 to 30: 1 July 1993 [Proc. 53, Gazette No. 14930, dated 1 July 1993]. Commencement date of s. 24: 15 December 1993 [Proc. 122, Gazette No. 15309, dated 10 December 1993].
- 3.6.27 The Financial Institutions Amendment Act 83 of 1992 – Government Notice 1772 in Government Gazette 14079, dated 1 July 1992. Commencement date of s. 14 to 18, 21 to 23, 25 to 27, 28(b) and 29: 15 December 1993 [Proc. 121, Gazette No. 15309, dated 10 December 1993].
- 3.6.28 The Pension Funds Amendment Act 22 of 1996 – Government Notice 636 in Government Gazette 17133, dated 19 April 1996. Commencement date: 19 April 1996.
- 3.6.29 The Labour Relations Act 66 of 1995 – Government Notice 1877 in Government Gazette 16861, dated 13 December 1995. Commencement date of section 211: 11 November 1996 [Proc. No. R66, Gazette No. 17516, dated 1 November 1996].
- 3.6.30 The Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996 – Government Notice 1888 in Government Gazette 17599, dated 22 November 1996. Commencement date: 22 November 1996.
- 3.6.31 The Judicial Matters Amendment Act 104 of 1996 – Government Notice 1902 in Government Gazette 17613, dated 27 November 1996. Commencement date: 14 February 1997 [Proc. R18, Gazette No. 17794, dated 14 February 1997].
- 3.6.32 The Long-term Insurance Act 52 of 1998 – Government Notice 1190 in Government Gazette 19276, dated 23 September 1998. Commencement date: 1 January 1999 [Proc. R127, Gazette No. 19596, dated 18 December 1998].
- 3.6.33 The Maintenance Act 99 of 1998 – Government Notice 1534 in Government Gazette 19513, dated 27 November 1998. Commencement date: 26 November 1999 [Proc. R116, Gazette No. 20627, dated 15 November 1999].

- 3.6.34 The Pension Funds Amendment Act 94 of 1997 – Government Notice 1649 in Government Gazette 18509, dated 17 December 1997. Commencement date: 2 April 2001 [Proc. 22, Gazette No. 22194, dated 2 April 2001].
- 3.6.35 The Pension Funds Second Amendment Act 39 of 2001 – Government Notice 1280 in Government Gazette 22891, dated 5 December 2001. Commencement date: 7 December 2001 [Proc. 65, Gazette No. 22924, dated 7 December 2001].
- 3.6.36 The Pension Funds Amendment Act 65 of 2001 – Government Notice 1332 in Government Gazette 22922, dated 6 December 2001. Commencement date: 7 December 2001 [Proc. 64, Gazette No. 22924, dated 7 December 2001].
- 3.6.37 The Pension Funds Amendment Act 11 of 2007 – Government Notice 806 in Government Gazette 30240, dated 29 August 2007. Commencement date: 13 September 2007 [Proc. 26, Gazette No. 30297, dated 13 September 2007].
- 3.6.38 The Revenue Laws Amendment Act 35 of 2007 – Government Notice 39 in Government Gazette 30656, dated 8 January 2008. Commencement date: 1 July 2008, unless otherwise indicated.
- 3.6.39 The Financial Services Laws General Amendment Act 22 of 2008 – Government Notice 1071 in Government Gazette 31471, dated 30 September 2008. Commencement date: 1 November 2008 [GN 1170, Gazette No. 31561, dated 31 October 2008].
- 3.6.40 The Revenue Laws Amendment Act 60 of 2008 – Government Notice 14 in Government Gazette 31781, dated 8 January 2009. Commencement date of section 3: 1 November 2008.
- 3.7 The Financial Services Laws General Amendment Act 45 of 2013 – Government Notice 15 in Government Gazette 37237, dated 16 January 2014. Commencement date: 28 February 2014, unless otherwise indicated [GN 120, Gazette No. 37351, dated 18 February 2014].
- 3.8 The Public Service Act, Act No. 103 of 1994 (as amended) read together with Public Service Regulations of 2001.
- 3.9 The Labour Relations Act, Act 66 of 1995.
- 3.10 Treasury Regulations issued in terms of the Public Finance Management Act, 1999, Section 8.2.2 (Approval of Expenditure), 10.1.1 and 10.1.2 (Asset Management).

4. OBJECTIVE

This policy is formulated to provide guidance on matters pertaining to:

- 4.1 Terminations of employment, voluntarily or on involuntary basis. Voluntary terminations provide the employer with an opportunity to review its management practices, while involuntary terminations present a challenge to limit the employer's liability for claims of wrongful discharge and discrimination.
- 4.2 Ensuring consistent treatment among employees whose working relationship with the Department is ending.
- 4.3 Minimising of legal fees arising from a legal dispute between the employer and the employee as a result of unfair labour practices and dismissals.
- 4.4 Ensuring that employee terminations are handled in a professional manner with minimal disruptions to on-going work functions.

5. PRINCIPLES, VALUES AND PHILOSOPHY

- 5.1 The Department of Roads and Public Works within the Northern Cape Provincial Government is committed to the implementation and full compliance to the Basic Conditions of Employment as enshrined in the Basic Conditions of Employment Act, and regulations in a manner that is fair, equitable, transparent and competitive.
 - 5.1.1 The termination process shall be open, fair and administratively just.
 - 5.1.2 The policy shall be consistently applied to all employees.
 - 5.1.3 In applying provisions of this policy, the relevant legislation must be taken into account.
 - 5.1.4 Termination should be treated as a last option unless circumstances suggest otherwise.

6. SCOPE AND APPLICABILITY

- 6.1 This policy applies to all employees of the Department of Roads and Public Works, Northern Cape Province.
- 6.2 This policy is also applicable to learners who has concluded a learnership agreement; and who was not employed by the employer party to the learnership agreement when the agreement was concluded.

7. PROCEDURES

The following procedures must be followed in order to correctly manage and administer termination of employees and should be handled consistently with the guidelines which follow.

- Retirement
- Resignation
- Section 17 of the Public Services Act
- Ill-health
- Incapacity to carry out duties
- Misconduct
- Officer appointed on Probation
- Misrepresentation of Position in relation to a Condition of Permanent appointment
- Continued Employment which constitutes a Security Risk
- Employment in Public Interest
- Voluntary/Premature Discharge initiated by an employee

1. RETIREMENT

An employee shall retire when he/she reaches the age of 65 years, if appointed before 1 July 1997, but the employee has a right to retire at age 60 (early retirement). If appointed after 1 July 1997, the retirement age is 60 years but the employee has a right to retire at age 55 (early retirement).

2. RESIGNATION

- (a) An employee must submit his/her resignation in writing.
- (b) The Department must record the reasons given by the employee for his/her resignation.
- (c) An employee paid monthly must give one month's written notice; a casual employee who has been employed for less than 4 weeks must give one week's notice; a casual employee who has been employed for more than 4 weeks must give at least 2 weeks' notice.
- (d) A shorter notice period may be given with the recommendation of the supervisor and the approval of the Head of Department. If the supervisor does not approve the short notice and the employee leaves, this will be regarded as an abscondment.
- (e) If an employee is elected to a position as a full-time councilor, in a municipal council he/she will have to resign from the Department. In cases where employees wish to take up part-time position in a municipal council, the department should ensure that such an employee undertakes her/his duties as a councilor as far as possible outside official hours of work. Specific approval has to be granted that such an employee may retain his/her remuneration, as required by section 30 of the Public Service Act, 1994 as amended. In order to assist the department with the managing of the position of

employees who wish to stand as candidates and who are elected to municipal councils, the following guide-lines should be followed:

- All staff should be informed of the provision and conditions that regulate their participation and election to municipal councils.
- Employees wishing to stand as candidates must inform the Department of their intentions. The Department should in turn ensure that employees are properly informed of the conditions they will have to comply with.
- Should an employee be elected to a municipal council, she/he is required to inform the designated persons of such election, the nature of their duties and responsibilities as a councilor whether she/he will be required to perform such duties during official hours and details of her/his remuneration.

3. SECTION 17 OF THE PUBLIC SERVICE ACT

Includes the following grounds for discharge:

17(2)(a) Ill-health.

17(2)(b) Abolition of posts or reduction or re-organisation.

17(2)(c) Reasons other than his/her own unfitness or incapacity/promote efficiency or economy within the Department.

17(2)(d) Unfitness for his/her duties or incapacity to carry them out efficiently.

4. ILL-HEALTH

- (a) An application for discharge on the grounds of ill-health can be initiated by either the employer or the employee.
- (b) The employee should in all instances have the right to provide a written response on the above action.
- (c) A decision regarding termination of service on account of ill-health should be made with due regard to the findings of the personal physicians or the district surgeon of the employee concerned.
- (d) In instances where medical reports do not provide clarity regarding the merits of an application, a report from a specialist physician may be requested. The Department may bear the cost of such report at its discretion.
- (e) The recommendation and inputs from the Department of Health, who constitute a medical board, shall be obtained.
- (f) The form Z29 (previously prescribed form) should be submitted together with all relevant documentation.
- (g) Circumstances must as a matter of clear probability indicate that the concerned employees' work performance has decreased to such an extent (as a result of continuous ill-health) that discharge is unavoidable and in the interest of the Department and State as a whole.

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- (h) Where circumstances indicate the inability or unsuitability of the employee to carry out his/her duties but do not establish clear grounds for discharge because the employee is unfit for further government Service as a result of continuous ill-health, Section 17(2)(d) of the Public Service Act, 1994 should rather be applied.
- (i) Attention should also be given to instances where the employee's ill-health is due to deliberate and/or irresponsible behavior of the employee and if so, it must be clearly indicated and the pension authorities should be duly informed.
- (j) In cases where applications were submitted on the employees' own initiative; the costs pertaining to the completion of a medical report, as well as the medical examinations, should be borne by the relevant employee.
- (k) The costs indicated in paragraph (j) will only be covered by the Department where the retirement due to continuous ill-health is an initiative of the Department.
- (l) Discharge in terms of the relevant section must not only be based on the employee's ill-health as such, but also his/her evident inability to render satisfactory service in his/her current or another post of suitable grading. The Head of Directorate should clearly indicate this in the recommendation.
- (m) Requirement for applications for discharge on the grounds of ill-health:
- Applications must include at least two medical reports from medical physicians (one of the reports may be provided by a traditional healer registered with an official body, but the other must be from a registered medical physician).
 - The Human Resource Management Unit may refer an employee to a specialist physician in doubtful cases.
 - Directorates must provide a comprehensive recommendation, including an indication that official/employee cannot be utilised alternatively.
 - A comprehensive work report must be provided by an employee's supervisor regarding all issues addressed in paragraph (a) to (n) of this chapter.
 - A job description in respect of the employee must be provided.
 - If an application does not contain the documents as indicated in this paragraph, guidance should be provided on submission of the right documents.
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(n) Delegation:

The authority to approve an application for ill-health retirement is vested with the MEC.

5. INCAPACITY TO CARRY-OUT DUTIES

- a) The aim of Section 17(2)(d) of the Act is to afford those employees who are unfit or incapable of performing their duties as expected, to be discharged from the service of the Department.
- b) In cases where an application in terms of Section 17(2)(a) of the Act appears not to be adequate or sufficient, termination of service in terms of unfitness/incapability may be considered.
- c) This procedure should be done within the framework of the performance

6. MISCONDUCT

Refer to Resolution No. 2 of 1999 and the Policy on Labour Relations: Disciplinary Procedures.

7. OFFICER APPOINTED ON PROBATION

Where the services of an employee on probation are terminated in terms of Section 13 of the Act, due regard must be taken regarding Item 8 of Schedule 8 of the Labour Relations Act.

8. MISREPRESENTATION OF POSITION IN RELATION TO A CONDITION OF PERMANENT EMPLOYMENT

Should an employee not comply with the stipulations of Section 10 of the Act, his/her services may be terminated in terms of Section 17(2)(g) of the Act.

9. CONTINUED EMPLOYMENT WHICH CONSTITUTE A SECURITY RISK

Should it come to light that an employee's continuous employment within the Department contains a security risk to the Department of the State as a whole, such employee services may be terminated.

10. EMPLOYMENT IN PUBLIC INTEREST

In cases where the Minister has employed certain employees to an office which serves in public interest such employment may be terminated in accordance to Section 17(2)(i) of the Act where the said employees contract expires or no further need for extended appointment is required.

11. VOLUNTARY / PREMATURE DISCHARGE INITIATED BY AN EMPLOYEE

- (a) In terms of Section 16(6)(a) of the Public Service Act, 1994 as amended an employee may request to be discharged prematurely from the Public Service before reaching the age of 55.
- (b) The employer has a prerogative to make the decision to release the employee or refuse to relieve him/her.
- (c) Conditions:

- * Requests in terms of this section must be in writing and with sufficient provision of reasons and acceptance thereof occurs at the employer's prerogative.
- * The application of the section must be in the interest of the state.

(d) Guidelines

The application of the section should occur within the broad context of the following:

- * Age/Length of Service
 Short periods of service should counteract the application of the section. The age of an officer must be considered thoroughly and cases of relative youthfulness should counteract the application of this section.
- Health Problems
 Health problems which are not so serious that they dictate discharge due to continuous ill-health but which are of such a nature that they have a negative influence on work performance.
- (e) The application of the section must be in the interest of the state.
- (f) Officials who retire in terms of this section are excluded from any reappointment (full-time or part-time) in the Public Service in future. Such officials must be informed of this restriction prior to finalising their premature retirement under this section.

12. LEARNERSHIP

12.1. Conditions for Terminations

An employer may terminate a learner's employment contract only if–

- 12.1.1. the specified learnership period has ended;
- 12.1.2. a learner successfully completes his learnership;
- 12.1.3. the employer and learner have agreed to do so in writing or if the SETA has approved it; or

12.1.4. a learner is fairly dismissed for his misconduct or incapacity as a worker.

12.2. Pay on Termination

On termination of employment employers must pay learners for any–

- 12.2.1. paid time off that the learner is entitled to;
- 12.2.2. leave that the learner has not taken

12.3. Certificate of Service

On termination of employment, learners are entitled to a certificate of service. The certificate must state –

- 12.3.1. the learner’s full name;
- 12.3.2. name and address of the employer;
- 12.3.3. a description of the sectoral employment standard that covers the employer’s business;
- 12.3.4. the starting and ending dates of the learner’s employment;
- 12.3.5. short description of the learner’s training and experience he gained;
- 12.3.6. the learner’s pay at the end of his employment; and
- 12.3.7. if the learner requests it, the reason for his termination.

8. ROLES AND RESPONSIBILITIES

EXECUTING AUTHORITY

The duties of the executing authority are outlines under section G of the Public Service Regulation 2001, as amended; and are quoted verbatim as follows:-

G.2.1 an executing authority shall prescribe the manner in which an employee shall submit her or his resignation.

G.2.2 an executing authority shall record the reasons given by the employee for her or his resignation.

G.2.3 an employee may resign from the public service, and for that purpose, unless otherwise agreed with the executing authority, shall -

- a) in the case of any employee paid monthly, give at least one month's written notice of resignation;
- b) in the case of any casual employee who has been employed for less than four weeks; give at least one week's notice of resignation or
- c) In the case of any casual employee who has been employed for more than four weeks, give at least two weeks’ notice.

G.3 Ill-health

G.3.1 an executing authority may on the basis of medical evidence, consider the discharge of an employee in terms of section 17(2) (a) of the Act on account of ill-health.

To this end, an executing authority may require an employee to undergo a medical examination by a registered physician.

G.3.2 A discharge on account of ill health shall occur with due regard to item 10 of Schedule 8 to the Labour Relations Act.

G.4 Operational requirements

G.4.1 An executing authority may discharge employees for operational reasons if the discharge complies with-

- (a) sections 17(2)(b) and (c) of the Act and sections 189 and 190 of the Labour Relations Act; and
- (b) Any applicable collective agreement that determines benefits for employees to be so discharged.

G.4.2 if an executing authority transfers personnel to an entity outside the public services he or she shall comply with section 197 of the Labour Relations Act.

G.4.3 If personnel is transferred from an entity outside the public service to a department, the executing authority shall comply with section 197 of the Labour Relations Act. [Regulation G.4.3 inserted by Government Notice No.R. 785 of 28 June 2004 with effect from 1 July 2004]

G.5 Termination of probation

When the services of an employee on probation are terminated in terms of section 13 of the Act, due regard must be had to item 8 of Schedule 8 to the Labour Relations Act.

HEAD OF DEPARTMENT / ACCOUNTING OFFICER

Most of the above stated functions of the executing authority have been delegated to the Accounting Officer. The Accounting Officer, therefore, advises the Executing Authority on matters pertaining to employee terminations in general.

HUMAN CAPITAL MANAGEMENT

The Human Resource Management unit plays a significant role through the whole process of termination of contracts; one of which is to help employees leave the organisation with their dignity intact. HR intervention:-

- Can help shape the process, guide the conversation and minimize potential damage to both company and employee.
- provides checks and balances;
- ensures company policy and procedures are followed; and
- in conjunction with legal services ensures that all actions conform to legal guidelines.

EMPLOYEE'S IMMEDIATE SUPERVISOR

The main responsibility of the supervisor is to deliver the message during termination of employee contracts.

The accounting officer of a user must surrender a surplus immovable asset under its control to the relevant custodian.

EMPLOYEE

The employee whose contract is being terminated has a right to fair hearing; if the termination was not initiated by the employee, to attend exit interview when asked to do so and to accept the responsibility of his/her own actions.....

9. FINANCIAL RESOURCE IMPLICATION

The Programme / Responsibility Managers of the Department shall submit budgetary requests to be approved by the Accounting Officer, on the recommendation of the Chief Financial Officer, to ensure that all expenses relating human capital management, including costs relating to terminations; are budgeted for through the medium expenditure framework.

10. MONITORING AND EVALUATION

Head of Department

The Head of Department as Accounting Officer of the Department has an oversight role in policy planning, development and implement. However, most of these functions of monitoring and evaluation have been delegated to units such as Policy, Internal Control and HR who should ensure amongst others the following:-

- (i) Efficient and effective implementation of the policy
- (ii) The accessibility of the policy to the intended parties
- (iii) The possible abuse of the policy
- (iv) Furnish the required monitoring reports, periodically.
- (v) Develop necessary tools and processes to assess the outcome of the policy implications by all the stakeholders

Penalties for Non-Compliance

- Any failure to comply with the Policy will be viewed as a serious disciplinary transgression and could lead to disciplinary action taken against the offending employee in terms of the Public Service Regulations and Code of Conduct.

11. POLICY REVIEW

- 12.1. This policy is effective from the date it is approved and signed by the Head of Department.
 - 12.2. This policy shall be assessed every five [5] years from its effective date to determine its effectiveness and appropriateness. This policy may be assessed before that time as necessary to reflect substantial organisational etc. changes at the Department or any change required by law.
 - 12.3. Deviations from this policy must be approved by the Accounting Officer.
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12. APPROVALS AND RECOMMENDATIONS

This policy is approved / not approved

Comments:

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.....



ACCOUNTING OFFICER

5.3.19

DATE
