

DISCIPLINARY PROCEDURE

Stringent demands are made on South African Airways Technical to render an effective service. The objective is pursued by the judicious use of people and material. In the pursuit of efficiency it is essential that the utilization of manpower should be developed to the highest possible level. This requires the effective application of the principles of personnel management/Labour relations – which will as far as possible ensure that human resources are utilized optimally. These techniques involve, amongst other things, the planning, organizing and co-ordination of activities and directing of personnel, including positive motivation, effective communication, sound interpersonal relations and effective discipline.

It is stressed that healthy discipline is a by-product of effective personnel management and labour relations as well as effective Aircraft Related Accident and Incident management. Poor discipline can be a system of ineffective personnel management / labour relations or ineffective management of Aircraft Related Accidents and Incidents.

There are two approaches to Discipline.

One approach would be the MEDA (Maintenance Error Decision Aid) approach. The fundamental MEDA philosophy is that maintenance errors are seldom random and, in fact, are caused by contributing factors, which, once isolated, can be eliminated or at least reduced.

MEDA is an event – driven aid that helps Airline Organizations reduce errors by giving the front line maintenance technicians and the managers a tool to understand and address factors contributing to the error. In addition MEDA provides a standardized format for a reporting and tracking of the data collected from each investigation. This information can be used to facilitate the necessary changes in support of the maintenance technician. Managing with facts and data is the direct opposite of making decisions based on hunches, “gut – feeling”, best guesses, experience, hearsay, or anger and other emotions.

The MEDA procedures are attached hereto as **SCHEDULE E**.

The second approach to discipline is to test the formal Code of Conduct for employees.

1.1 WHAT IS A DISCIPLINARY PROCEDURE?

A disciplinary procedure contains a formal code of conduct for employees and a set of guidelines or rules, which regulate the procedure(s) to be followed when disciplinary action becomes necessary for breach of that code of conduct. It aims to regulate the behavior of employees of an organization.

Disciplinary procedures vary in both content and form from employer to employer because they are usually customized to meet the employer's specific needs.

1.2 WHY DO EMPLOYERS HAVE DISCIPLINARY PROCEDURES?

The purpose of discipline is to obtain the co-operation and involvement of employees and, if necessary to bring them back to the standard of conduct required by South African Airways Technical as an Aircraft Maintenance Organization.

The Labour Relations Act does not proclaimate that an employer must implement disciplinary procedures, yet merely states that any disciplinary action must be procedurally and substantively fair, using the following guide lines: -

- 1.2.1 It is the employer's responsibility to establish a code of conduct, as a set of rules or guidelines, which should be known and understood by all employees, which is suited to his requirements.
- 1.2.2 A disciplinary procedure lays down Management's right to manage and the employees' right to fairness in discipline.
- 1.2.3 The employer removes uncertainty in the minds of management about its stance on disciplinary issues. The procedures are an aid to assist Management in taking remedial action by applying discipline fairly, and ensuring that employee knows and understand what constitute discipline.
- 1.2.4 The Disciplinary procedure will result in consistency in disciplinary action taken.

1.3 GROUNDS FOR DISCIPLINARY ACTION

An employee may be guilty of an offence and disciplinary action may be taken against him in accordance with this code if he-

- 1.3.1 Contravenes or fails to comply with a law or instruction regulating his service or his Conditions of Employment or a general specific instruction issued by a competent authority;
- 1.3.2 Executes his duties in such a way as to be in conflict with the generally accepted practice; or
- 1.3.3 Is guilty of an act or of conduct, which may be construed (according to the ordinary meaning of the expression) as **misconduct** on the part of the employee.

Misconduct is defined as behavior of an employee that constitutes a breach of South African Airways Technical Code of Conduct.

1.3.4 Abscondment

Abscondment describes the situation when an employee is absent from work either without explanation, or in circumstances, which suggest that, the departure is permanent.

Although the period of absence that must pass before the employee can be treated as having absconded is determined by the circumstances in each case, SAAT regards **15** days unexplained absence as sufficient to commence the process.

The employee's Supervisor would notify the employee by means of telegram to contact the Company within 5-days of delivery and proof of receipt of the telegram.

Should the employee fail to comply to the order, the Supervisor would obtain a standard letter from the Human Resources Department, in which the employee should be notified that he is being treated as absconded, and therefore a Disciplinary Hearing, is to be scheduled in this regard. An Annexure A and Annexure B, notifying the employee of the Office as well as the date and time of the hearing, should accompany this letter.

The letter should be hand-delivered, and preferably a signature on receipt thereof must be obtained.

Should the employee still fail to respond to the above, a Disciplinary Hearing would be conducted in the absence of the employee on the date set accordingly. If the employee is a Union member, the union would be kept informed accordingly.

Should the employee return to work some time after his services have been terminated for Abscondment the manager should meet with the employee to determine the reasons for absence. The Company' will exercise its parogative in terms of re-instatement, and proper motivation might result in no loss of salary or benefits.

1.3.5 Imprisonment

The reason for the imprisonment is a relevant factor when a decision must be made regarding an employee who is imprisoned.

1.3.5.1. Imprisonment for civil offences

Where an employee is held in custody / imprisoned for civil offences, for example unpaid debts, the length of the imprisonment and the nature of the offence must be taken into account before any decisions are made. Based on these considerations, the manager may decide to either:-

1.3.5.1.1 Terminate the employee's service;

1.3.5.1.2 Allow the employee unpaid leave for the period of imprisonment; or

1.3.5.1.3 Terminate the employee's service with the option to re-apply after serving prison term.

If the manager decides to terminate the employee's service, a disciplinary enquiry should be held.

1.3.5.2 Imprisonment for criminal offences

If an employee is arrested and charged with a criminal offense, he remains innocent until proven guilty. It may be that he is not granted bail, or is unable to pay bail. In this case the manager is advised to liaise with the police and / or prosecutor to ascertain how long the employee will be held in custody before trial.

If the employee is to be in custody for a lengthy period, the manager may hold a disciplinary enquiry with the employee, and decide to terminate his services based on incapacity.

Even if the employee is in custody awaiting trial, the manager may hold a disciplinary enquiry after an internal investigation has been conducted and evidence collected, and based on balance of probabilities the manager may have sufficient grounds and evidence for the employee's dismissal / other disciplinary action. ***The criminal trial is separate from SAAT internal disciplinary procedures.***

However, if an employee is tried in court and subsequently convicted of a criminal offence, SAAT may dismiss the employee, based on either the nature of the conviction, or for incapacity if he is imprisoned.

If an employee is detained under security or emergency legislation, this is treated quite differently – please contact the Employee Relations Department.

1.3.6 Psychologically disturbed

If an employee is psychologically disturbed to the extent that he is incapable of performing his duties, or it affects his duties and / or he is a danger to the other employees, the manager should contact **Employee Well-being Department**.

1.4 OFFENCES

The offences listed in this clause are examples of offences which an employee could be charged with, and therefore does not limit the employer to these offences.

1.4.1 A distinction may be made between an offence of a less serious nature and an offence of a serious nature. Offences of a less serious nature shall include **but not be limited to**:-

- 1.1.4.1 Absence from duty without authority.
- 1.4.1.2 Reporting late for duty.
- 1.4.1.3 Leaving the place of work without authority.
- 1.4.1.4 Failure to report illness or to otherwise arrange for the circumstances to be reported to his immediate senior officer.
- 1.4.1.5 Disregarding a reasonable lawful order from a competent authority.

1.4.2 The following may be considered to be offences of a serious nature **but not be limited to**, especially where damage is inflicted upon South African Airways Technical.

- 1.4.2.1. Theft
- 1.4.2.2. Fraud
- 1.4.2.3. Dishonesty
- 1.4.2.4. Disregarding a reasonable lawful order from a competent authority.
- 1.4.2.5. Intoxication/being under the influence of drugs that have a narcotic effect while on duty.
- 1.4.2.6. Serious neglect of duty.
- 1.4.2.7. Assault.
- 1.2.2.8 Assuming a threatening attitude towards a fellow worker.

1.5. TAKING APPROPRIATE ACTION

Each case must be decided on its merits. Although certain offences are regarded as more serious than others as recorded in sub-paragraph 1.4. above, the ultimate decision of how serious an offence is can only be made after all the circumstances have been taken into account.

Therefore the Employer must be satisfied that the Employee has made himself guilty of any of the above recorded offences, and the employer must be satisfied that the alleged offence justifies disciplinary action by using the following **guidelines**:-

Offences of a less serious nature shall include but not be limited to:-

1.5.2. Absence from duty without Authority.

- 1.5.2.1 The employer must be satisfied that the employee has been absent from duty without obtaining authority from the employer.
- 1.5.2.2 The employer must be satisfied that the employee is absent from duty frequently.
- 1.5.2.3 The employer must be satisfied that the employee's conduct has been previously addressed with the employee and that the employee has received a letter

from the employer recording their discussion and the alternative to the improvement of the employee's conduct.

- 1.5.2.4 The employer should be satisfied that the employee has previously been informed that Disciplinary Action would be taken against him for absenteeism without authority.

NOTE: *If the employer cannot satisfy himself with the above, the employer should have a meeting with the employee and discuss the matter with the employee followed by a letter recording the discussion and the alternative to the improvement of the employee's conduct. Such letter should be kept on file for future reference.*

1.5.3 Reporting late for duty

- 1.5.3.1 The employer must be satisfied that the employee arrives late for duty on a regular basis.

- 1.5.3.2 The employer must be satisfied that the employees reason for late coming is not justifiable.

- 1.5.3.3 The employer must be satisfied that the employee has failed to inform the employer of his possible late coming.

- 1.5.3.4 The employer must be satisfied that the employee's conduct has been previously addressed with the employee and that the employee has received a letter from the employer recording their discussion and the alternative to the improvement of the employee's conduct.

- 1.5.3.5 The employer should be satisfied that the employee has previously been informed that Disciplinary Action would be taken against him for reporting late for duty.

NOTE: *If the employer cannot satisfy himself with the above, the employer should have a meeting with the employee and discuss the matter with the employee followed by a letter recording the discussion and the alternative to the improvement of the employee's conduct. Such letter should be kept on file for future reference.*

1.5.4 Leaving place of work without authority

- 1.5.4.1 The employer must be satisfied that the employee did leave his workplace without obtaining necessary authority.

- 1.5.4.2 The employer must be satisfied that he had met with the employee and that the reasons given for early departure were not justifiable.

1.5.5 Failure to report illness or to otherwise arrange for the circumstances to be reported to his immediate supervisor.

- 1.5.5.1 The employer must be satisfied that the employee has failed to inform the employer of his illness.

- 1.5.5.2 The employer must be satisfied that the reasons given by the employee for not reporting illness is justifiable.

1.5.6 Disregarding a reasonable lawful order from a competent authority.

- 1.5.6.1 The employer must be satisfied that the employee willfully disregarded a reasonable lawful order from a competent authority.
- 1.5.6.2 The employer must be satisfied that the order was given by a competent authority.
- 1.5.6.3 The employer must be satisfied that the order was reasonable and lawful.

Offences of a serious nature but not be limited to;

1.5.7 Theft

- 1.5.7.1 In terms of Law "Theft" is defined as the unlawful appropriation of property not belonging to the appropriator, with the intention of stealing it.
- 1.5.7.2 The employer must be satisfied that it could be **possible** that the employee has unlawfully taken goods;
- 1.5.7.3 The employer must be satisfied that the goods are of material object;
- 1.5.7.4 The employer must be satisfied that the goods could be physically stolen;
- 1.5.7.5 The employer must be satisfied that the employees intention was to steal the goods;
- 1.5.7.6 The employer must be satisfied **without a doubt**, that the alleged stolen goods belongs to either South African Airways Technical, a 3rd Party Company and or a co-employee.

1.5.8 Fraud

- 1.5.8.1 In terms of law "Fraud" is defined as in unlawfully making, with the intent to defraud, a misrepresentation which causes actual prejudice or which is potentially prejudicial to another.
- 1.5.8.2 The employer must be satisfied that the employee has made himself guilty of fraud referring to the above definition.

1.5.9 Dishonesty

- 1.5.9.1 In terms of law "Dishonesty" is defined as the generic term used to cover actions not specifically listed.
- 1.5.9.2 The employer must be satisfied that the employee has made himself guilty of any offence which could be construed thus as being dishonest.

1.5.10 Disregarding a reasonable lawful order from a competent authority.

- 1.5.10.1 The employer must be satisfied that the employee willfully disregarded a reasonable lawful order from a competent authority.
- 1.5.10.2 The employer must be satisfied that the order was lawful.
- 1.5.10.3 The employer must be satisfied that the authority was competent.
- 1.5.10.4 The employer must be satisfied that the lawful instruction was reasonable.

1.5.10 Intoxication / being under the influence of drugs that have a narcotic effect while on duty.

1.5.10.1. The employer must be satisfied that the employee is unable to perform his normal functions as a result of his intoxication.

1.5.10.2. The employer must be satisfied that the employee has not approached management and informed them that he is unable to perform his normal duties as a result of intoxication.

NOTE: *In this case the employee should be send home and take a days unpaid leave.*

1.5.10.3 The employer must be satisfied that the employee is regularly making himself guilty of intoxication.

1.5.10.4 The employer must be satisfied that the employee's conduct has been previously addressed with the employee and that the employee has received a letter from the employer recording their discussion and the alternative to the improvement of the employee's conduct.

1.5.10.5 The employer should be satisfied that the employee has previously been informed that Disciplinary Action would be taken against him for intoxication.

NOTE: *If the employer cannot satisfy himself with the above, the employer should have a meeting with the employee and discuss the matter with the employee followed by a letter recording the discussion and the alternative to the improvement of the employee's conduct. Such letter should be kept on file for future reference.*

1.5.11 Serious neglect of duty

1.5.11.5 In terms of Law "Neglect" normally manifests itself in damage to company property or damage to company product.

1.5.11.6 The employer should be satisfied that the employee's conduct has resulted in damage to company property or damage to company product.

1.5.12 Assault

1.5.12.5 In terms of Law "assault" is defined as the unlawful and intentional application of force, or a threat of force, to a person, which causes that person to believe that force may imminently be applied to him. Assault is the serious violation of another person's bodily integrity.

1.5.12.6 The employer must be satisfied that the employee's intention was in line with the definition as described above.

1.5.13 Assuming a threatening attitude towards a fellow worker.

1.5.13.5 The employer must be satisfied that the employee has assumed a threatening attitude towards a fellow worker.

1.5.13.6 The employer must be satisfied that the employee's intention was to be threatening towards the other employee.

1.6 SUSPENSION

Suspension of an employee's services should be restricted to certain circumstances:

- 1.6.1 When an employee is suspected of having committed to an offence that is of such a nature that he cannot be allowed to continue working. The purpose of this is to prevent the employee from possibly committing a similar offence pending the disciplinary enquiry.
- 1.6.2 Where the employee's presence could lead to the aggravation of a sensitive situation or disruption of work.

The procedure that should be followed for suspension of an employee is:

- 1.6.3 The employee should be told of the decision to suspend him and the reason for suspension. He should be given an Annexure A at that time, which stipulate the allegation against him.
- 1.6.4 The employer should request the employee to report for duty the next day at a certain time and place to collect the Annexure B.
- 1.6.5 The employer should contact the Employee Relations Department and arrange for a date, time and place as well as a Presiding Officer for within 7-days of the incident to allow time for investigation into this allegations.
- 1.6.6 The Annexure B should be handed to the employee at the date and time as pre-arranged in terms of sub-clause 1.6.4 above.
- 1.6.7 Suspended employees would be on full pay during the suspension period.

1.7 THE DISCIPLINARY PROCESS

Now that the Employer has satisfied himself with the guidelines above, and is satisfied that disciplinary action is justified the following process are to be followed: -

Procedures (Offences of a Less Serious nature)

- 1.7.1 The employer in the event of first offences summarily disposes of such case by warning the employee concerned verbally.
- 1.7.2 The employer in the event of re-occurrence of the same offence shall issue the employee with a written warning in the presence of the employees' representative, whereas the employer would pertinently point out to the employee that he is exposing himself to more stringent action. The employer as well as the employee shall sign such written warning and his representative and a copy shall be placed on his personal file, for a period not longer than 3 months.
- 1.7.3 Repeated offences may lead to more severe disciplinary action.

Procedures (Offences of a Serious Nature)

- 1.7.4 Where it is alleged or suspected that an employee has been guilty of a serious disciplinary infringement, the employer shall be informed of the circumstances.
- 1.7.5 The employer shall call a Preliminary Hearing within 5 days of receiving a complaint.

1.8 THE PRELIMINARY HEARING

A Preliminary Hearing will be held, prior to the Disciplinary Hearing, whereas:

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- 1.8.1 It should be established whether the MEDA (Maintenance Error Decision Aid) approach would be used.
 - 1.8.1.1 Whereas this proceedings would be referred to the MEDA committee.

OR;

- 1.8.2 It should be established whether the formal Code of Conduct for employees should be tested.
 - 1.8.2.1 Whereas both parties would have the opportunity to state their cases, with evidence and witnesses as are necessary.
 - 1.8.2.2 Agreement on appropriate action can be reached at a Preliminary hearing.
 - 1.8.2.3 Failure to reach agreement will automatically be followed in terms of sub-clause 1.8.3 below.
- 1.8.3 If the employer is satisfied to institute formal disciplinary action after the preliminary hearing, the form Annexure A shall be completed and a copy shall be supplied to the employee and to the disciplinary officer immediately – (or within reasonable time – not exceeding 5 days after the preliminary hearing)
- 1.8.4 The disciplinary officer shall inform the employee by means of the form in Annexure B that a hearing will be held and that provision will be made for witnesses he wishes to call. Such Annexure B will be issued to the employee in the company of his representative of his choice.
- 1.8.5 The disciplinary hearing shall be held within reasonable time of issuing Annexure B but not within a shorter period than 5 (Five) working days of notification, in order to allow the employee time to prepare for proper representation.
- 1.8.6 The employer will make available copies of all relevant documentation (i.e. Statements, Records, Copies of time sheets, authorization sheets, and any other information relevant to the allege offence) to the employee prior to the disciplinary hearing.
- 1.8.7 In terms of alleged theft, the employer will allow the employee and the representative to view the alleged stolen property.
- 1.8.8 The employee shall at all times be afforded the opportunity to be represented.
- 1.8.9 The Employee Relations Department shall designate a Presiding Officer who shall not be involved in the case, for the hearing.

1.9 THE DISCIPLINARY HEARING

- 1.9.1 Parties at the hearing
 - 1.9.1.1 The Presiding Officer;
 - 1.9.1.2 The Disciplinary Officer;
 - 1.9.1.3 The Employee Relations Officer, (Observer);
 - 1.9.1.4 The alleged offender;
 - 1.9.1.5 The alleged offender's representative
 - 1.9.1.6 Witnesses (for the duration of their evidence only).
 - 1.9.1.7 Interpreter (if requested)
- 1.9.2 The alleged offender's rights
 - The Presiding officer shall ensure that –
 - 1.9.2.1 Annexure B is completed correctly;
 - 1.9.2.2 The alleged offender understands the accusation(s) made against him;
 - 1.9.2.3 Evidence is given in proof of the alleged offence;
 - 1.9.2.4 The alleged offender is given the opportunity to state his case, to call witnesses and to cross-examine witnesses; and

- 1.9.2.5 An interpreter is available should a non-official language be used during the hearing.
- 1.9.3 After all the evidence has been heard the presiding officer shall decide whether or not the employee concerned is guilty of the alleged offence(s).
- 1.9.4 Should the decision be one of guilty, the presiding officer shall immediately afford the offender an opportunity to present evidence in extenuation of his actions.
- 1.9.5 The Presiding Officer in consultation with the Disciplinary Officer shall decide on the appropriate course of action and inform the offender verbally of such course of action immediately after the hearing.
- 1.9.6 These proceedings shall be recorded on the form in Annexure C.
- 1.9.7 The offender shall also be notified of his right of appeal, or of the dispute mechanism at his disposal whichever applies.
- 1.9.8 The presiding officer shall be responsible for keeping proper minutes on tape of the course of the hearing.
- 1.9.9 Should the circumstances justify it, a disciplinary hearing may proceed in the absence of the offender.

1.10 THE APPROPRIATE SANCTION / PENALTIES

Once an allegation against an employee is proven, and mitigating and aggravating, factors have been considered, a penalty must be imposed. The penalty must be appropriate to the seriousness of the offence.

It must be emphasized that the purpose of disciplinary action is to correct behavior, not merely to punish the offender. The manager has the responsibility to ensure that discipline is correctly handled and implemented, to achieve the desired outcome.

1.10.1 Formal verbal warning

A verbal warning encompasses reprimands in the form of day-to-day corrective instructions and counseling given to an employee. The ground for verbal warning is usually offences of a less serious nature, or the first stage of disciplinary counseling.

The employee's direct senior who should ensure the employee understands the warning, the alleged offence and the correct action in terms of the alleged offence normally issues the first written verbal warning.

1.10.2 First written warning

A first written warning is considered to be an appropriate penalty either when the employee has a valid formal verbal warning for the same or a similar offence, or when the circumstances are of a more serious nature so as to warrant a more serious penalty. (*Despite no previous warnings*)

If a SAAT standard warning form is not used, a letter must be written which clearly states that it is a first written warning.

The employer should ensure that the employee understand the nature, content and seriousness of the written warning. The employer should obtain signature from the employee as an acknowledgement of receipt of the written warning. Should the employee refuse to sign receipt of the warning form, a witness should acknowledge by means of signature that the warning form has been issued.

This applies to all forms of written disciplinary penalties. (*A first written warning is valid for 6 months*)

1.10.3 Final Written Warning

A final written warning is warranted where a previous warning has failed to achieve the desired improvement or breach of discipline or is sufficiently serious to warrant a final written warning. (*Despite no previous warning*).

A final written warning is valid for 12 months.

1.10.4 Dismissal with notice

Dismissal with notice is warranted where despite a final written warning the employee has committed the same or a similar breach of discipline, failed to improve his performance or where the offence is of a sufficiently serious nature to warrant dismissal.

NOTE: No employee may be dismissed without a disciplinary enquiry and the Authorization of a Senior Manager of that Division.

This authorization may be given verbally or in writing.

The manager may make a decision as to whether the employee should work his notice period or not. In most circumstances it is not advisable to the employee to work his notice period although he is entitled to be paid for it.

1.10.5 Dismissal without notice (summary dismissal)

Dismissal without notice is usually limited to cases where the offence is of an extremely serious nature.

For example, fraud, theft or breach of security regulations, assault etc. The circumstances in each case should be taken into consideration before a penalty is decided upon.

NOTE: No employee may be summary dismissed without a disciplinary enquiry and the Authorization of a Senior Manager of that Division.

Summary dismissal does not mean "dismissal "on the spot". Dismissal "on the spot" (i.e. without following any procedures) will always be unfair and therefore an unfair labour practice.

Summary dismissal is only imposed after a full disciplinary enquiry, and should be as a result of the enquiry. The employee is paid only until his last working day, and receives no notice.

PENALTIES NOT ALLOWED

Certain penalties are not allowed according to SAT's Disciplinary and Appeal procedures

1.10.6 Monetary fines

1.10.7 Demotion

As a general rule, demotion is not allowed and the Labour Court will regard it as an unfair labour practice. The reason is under certain circumstances it constitutes a type of unfair dismissal and / or a

unilateral amendment to an employee's terms and conditions of employment.

This will be unfair whether the employee has had a drop in salary and/or benefits or not.

Consequently, should a manager, for whatever reason, be considering the demotion of an employee, the Employee Relations Department should be contacted for advice.

1.10.8 Constructive dismissal / Forced Resignation

There are two types of forced resignations:-

- 1.10.8.1.1 The manager, through various tactics, makes the employee's job and working environment unpleasant and unbearable to the extent that the employee feels he has no option but to resign; or
- 1.10.8.2 His manager informs the employee that it would probably be best for both the employee and the employer if the employee resigns voluntarily. This is normally followed by the explanation that if he doesn't resign he will be "fired".

Both situations outlined above are unfair labour practices.

1.11. APPEAL PROCEDURE

An employee who is found guilty of a disciplinary offence may appeal against such decision to his Executive Vice President.

1.11.1. The grounds of appeal shall be based on the following:-

- 1.11.1.1. Jurisdiction
- 1.11.1.2. Procedural irregularities
- 1.11.1.3. Evidential problems
- 1.11.1.4. Queries/problems with penalty. (Substance)

1.11.2. Setting up the appeal hearing

An appeal is lodged when an employee completes Annexure D and hands it in to the Employee Relations Department within 10 days of receiving the outcome of the Disciplinary Hearing.

- 1.11.2.1. The Employee Relations Department Representative would arrange a suitable to all parties; date; time and venue for the hearing, not exceeding 10-days within receipt of the appeal.
- 1.11.2.2. The Employee Relations Department Representative would inform all parties of the appeal hearing in written format.
- 1.11.2.3. The Employee Relations Department would arrange for minutes to be taken at the appeal hearing.
- 1.11.2.4. The employee would be informed of his rights at the appeal hearing prior to it taking place by the Employee Relations Department.

- 1.11.2.5. The Employee Relations Department should satisfy itself that the employee understands the language in which the hearing will be conducted. If he/she does not, an interpreter should be arranged to be present.
- 1.11.2.6. The employee should hold the appeal hearing within 10 days of receipt of formal appeal.

1.11.3. Present at the Appeal Hearing

- 1.11.3.1. The appeal chairperson who's role would be to listen to both sides, hear evidence if necessary, cross-question and made a decision to either upheld a decision taken by the Disciplinary Hearing Presiding Officer or lessen the sanction accordingly.
- 1.11.3.2. The employee and his representative, who will initiate the proceedings with the grounds for the appeal.
- 1.11.3.3. An Employee Relations Representative who's role would be to take minutes or interpret. They may remain present for the duration of the hearing.

1.11.4. Appeal Hearing Presiding Officer's responsibility:

- 1.11.4.1 To listen to the Offender's representation, on grounds of the appeal.
- 1.11.4.2 To listen to the tapes of the hearing in question held.
- 1.11.4.3 To liase with the Disciplinary Presiding Officer, to establish reasons for his decision.
- 1.11.4.4 To liase with Employee Relations Department; and
- 1.11.4.5 To respond to the appellant within 10 working days from the date of the Appeal hearing.

1.11.4. Right to declare a dispute

- 1.11.4.1. Should the appeal presiding officer upheld the Disciplinary Action taken against the employee at the Disciplinary Hearing, the employee has the right to declare a dispute in terms of the Dispute Resolution Agreement, attached as **Schedule C** of this document.

1.12. ALCOHOL TEST PROCEDURE

- 1.12.1. Should a Supervisor or a colleague suspect an employee of being under the influence of any narcotic substance, he should call in a competent observer to observe his discussions with the alleged offender.
- 1.12.2 The Supervisor should satisfy himself that the employee;
 - 1.12.2.1 Smell of substance
 - 1.12.2.2 Speech is affected
 - 1.12.2.3 Balance is affected
 - 1.12.2.4 Eyes are red and hazy
 - 1.12.2.5 Hearing is affected.
- 1.12.3 The Supervisor should inform the employee that he suspect him by means of his behavior that the employee could be under the influence of alcohol.
- 1.12.4 The Supervisor should inform the employee that it is his intention to subject the employee to an alcohol test, and further inform him, that with his in mind as from that moment the employee is not allowed to consume any beverages or smoke a cigarettes which may influence the alcohol test negatively, and be held against the employee.

- 1.12.5 The Supervisor should explain to the employee that he has the right to choose a witness to observe the test in order to ensure that the testing is conducted fairly.
- 1.12.6 The Supervisor should ensure that the tester's (to be used) calibration has not expired. The calibration certificate should be available for viewing on request.
- 1.12.7 The supervisor should select a clean mouthpiece and fit it to the tester. He should ensure that the batteries are in good condition and read the instructions on the reverse of the Drive Safe Tester.
- 1.12.8 The Supervisor should demonstrate the use of the tester on him and get the witness to confirm the reading and obtain a signature from the witness's.
- 1.12.9 The Supervisor should then apply a clean mouthpiece and ask the employee to undertake the test.
- 1.12.10 The Supervisor should then verify the reading to the person being tested and to the witness's. If the reading is above 0.05% the Supervisor has the right to take the necessary disciplinary action in order to ensure the safety of both the employee and the workplace.
- 1.12.11 If the reading is below 0.05% the Supervisor need not take any further action and the employee would be free to continue his normal duties.
- 1.12.12 The Supervisor has the right to take the necessary disciplinary action in order to ensure the safety of both the employee and the workplace, should the employee refuse to undergo the test.
- 1.12.13 These tests results may not be used as the only evidence in a disciplinary enquiry, further oral evidence corroborating the results should be obtained.
- 1.12.14 The alcohol test result should be recorded in Annexure E (a) of this Schedule.

1.13 Forms for the Disciplinary Procedures

Attached is Annexure A; Annexure B & B(1); Annexure C Annexure D; and Annexure E(a) & E(b) of the Discipline Procedures.

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ANNEXURE A.

Name: Employee No:.....

Grade: Section:.....

Alleged Offence: (Including; Date; Time and Venue)

Witnesses: (If Any)

Signature:Date:

I take cognizance of the above-mentioned alleged offence that has been brought against me and that I must furnish particulars of witnesses I wish to call (if any) and of my assistance (if I wish to avail myself of assistance) within 5 (five) working days.

Signature: Date:
.....

Should the alleged offender refuse to sign:

The alleged offender has been informed verbally of the alleged offence and that details of his assistance / witnesses (if any) must be furnished within five days.

Signature: Date:

ANNEXURE B.

Name: Employee No:.....

Grade: Section:.....

On account of the alleged offence as recorded in Annexure A attached, of which you have taken cognizance on, you are hereby notified that you are required to attend a disciplinary enquiry on(date),(time). It will be held in (venue). The enquiry would be to investigate the charges against you as recorded in Annexure A.

Mr/Mrs (name),
..... (grade), of
.....(section), will act as Presiding Officer.

Arrangements have been made for the following employees to attend the hearing as witnesses:

Please note:

You have the right to be represented by one person of your choice.

You have the right to an interpreter to have the proceedings translated into your home language.

The Presiding Officer will make a decision as to whether or not the allegation(s) against you are proven.

If proven, the Presiding Officer will impose an appropriate disciplinary penalty on you.

Should you fail to attend the hearing without a valid explanation; the enquiry could be conducted in your absence.

You have the right to appeal the decision of the Presiding Officer.

Signature Date:.....
(Disciplinary Officer)

Signature Date:
(Alleged Offender)

Signature Date:
(Alleged Offender's Representative)

I/We the undersigned hereby voluntarily declare that I am / we are satisfied with the way in which this hearing took place.

Signature Date:
(Alleged Offender)

Signature Date:
(Alleged Offender's Representative)

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Alleged offender found guilty / not guilty. Motivation for conviction:

Four horizontal lines for text entry.

I the Presiding Officer find that the following disciplinary action should be taken:

Three horizontal lines for text entry.

Alleged Offender / Offender verbally informed of disciplinary action at(time) on(date).

Alleged Offender / Offender was also notified that the action will be recorded against him.

Signature: Signature:.....
(Disciplinary Officer) (Presiding Officer)

I the alleged offender / offender has been verbally informed of the particulars of the above-mentioned disciplinary action.

I take cognizance that, should I not be satisfied with the decision, my appeal must be submitted within 7 (seven) working days.

Signature Date:
.....
(Alleged Offender)

Signature Date:
.....
(Alleged Offender's Representative)

Name: Employee No

Grade: Section:

Date:

I hereby appeal against the disciplinary action taken against me on _____(date) on which I was verbally informed of action indicated in Annexure C.

My reasons for appeal are as follows: (attached additional pages, if necessary)

Signature Date:
(Alleged Offender)

Signature Date:
(Alleged Offender's Representative)

Appeal submitted on(date)

Signature
(ER representative)

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ALCOHOL TEST REPORT

At (time) _____ on _____ (date)

Mr/Mrs/Ms _____

Employed at: _____ was found by _____

At (place) _____ and suspected to be unfit for duty.

REMARKS

These proceedings are/ are not supported by tape recording.

(A) He/She was taken to _____ where the alcohol test procedure was explained to him/her, whereupon, he/she voluntarily subjected himself/herself to an alcohol test which was carried out by _____ in the presence of _____.

OR;

(B) He / She refused to undergo the alcohol test because _____

(C) The following symptoms were observed: (*delete those not applicable*)

1. Breath smelt of liquor;
2. Unsteady on his / her feet;
3. Bloodshot Eyes;
4. Speech not normal;
5. Talkative;
6. Aggressive;
7. Other symptoms;
 - a. _____
 - b. _____

(D) Admissions
The employee admitted / dit not admit that he / she had drunk alcohol or taken any drugs which could have a narcotic effect.

(E) Test result
The alcohol test was positive / negative.

(F) Action taken
(Delete where not applicable)

- a. He/She was suspended from duty at _____.
- c. He/She was allowed to continue normal duty.

CHECKLIST FOR ALCOHOL/DRUG OFFENCES

Name: Employee No:.....

Grade: Section:

Date:

1. Ask the employee the following questions and record his answers:

- 1.1. What is your Name?

- 1.2. What is your pension no.?

- 1.3. Where are you at present?

- 1.4. Have you been drinking or had any use of illegal substance?

2. Carry out the following observations and note your findings accordingly:-

- 2.1. Does the employee speak in a slurred voice?
Yes No
- 2.2. Can he hold a coherent conversation?
Yes No
- 2.3. Can he walk in a straight line?
Yes No
- 2.4. Is he swaying and staggering?
Yes No
- 2.5. Does he smell of alcohol?
Yes No
- 2.6. Is his clothes untidy and disheveled?
Yes No
- 2.7. Is his eyes bloodshot?
Yes No

3. If a breathalyzer test has been conducted, record the results accordingly:

- 3.1. Not done
- 3.2. Positive
- 3.3. Negative

4. Based on the above observations, do you believe the employee can carry out his duties safely and efficiently?

- 4.1 Yes
- 4.2 No

5. Note any other relevant observations below:

Signature
.....
(Complainant) (Witness 1)
(Witness 2)

