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

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# GOVERNMENT NOTICES

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## DEPARTMENT OF CORRECTIONAL SERVICES

No. R. 914

30 July 2004

CORRECTIONAL SERVICES ACT, 1998

### PROMULGATION OF REGULATIONS

The Minister of Correctional Services has under section 134 of the Correctional Services Act, 1998 (Act No. 111 of 1998) made the regulations in the Schedule to commence on 31 July 2004.

**CORRECTIONAL SERVICES REGULATIONS**

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## **REGULATIONS**

The Regulations in terms of Section 134 of the Correctional Services Act, 1998 (Act 111 of 1998) for the Administration of the Department of Correctional Services of the Republic of South Africa.

### **CHAPTER I**

#### **DEFINITIONS**

1. In these regulations, unless inconsistent with the context, an expression defined in the Act has the same meaning as in the Act and -

**"Cared-for child"** means the child that a female prisoner is permitted, in terms of section 20 of the Act to have with her in prison;

**"Clinical trials"** means an investigation destined to discover or verify the clinical pharmacological or other pharmacodynamic effects of an investigational product on persons or to identify any adverse reactions in persons to an investigational product or to study absorption, distribution, metabolism and excretion of an investigational product with the object of ascertaining its safety or efficiency;

**"Correctional Services canteen"** means a canteen established in terms of section 132(1) of the Act;

**"Correction supervision official"** means a correctional official in control of one or more monitoring officials referred to in Regulation 27;

**"Disability"** means a long-term or recurring physical or mental impairment which substantially limits a person's ability to perform an activity in the manner or within a range considered normal for a human being;

**"Healthcare provider"** means a medical officer, medical practitioner, registered nurse or professional as defined in section 1 of the Act and "health care worker" has a corresponding meaning;

**"Emergency Support Team"** means a team of correctional officials who are specially trained for utilisation during emergency situations to ensure a safe and secure environment within the Department;

**"Health status"** means the assessment of the health of a person in terms of the absence of disease or disability and also of personal health habits, family history, occupational and environmental conditions and influences or a combination thereof which affect long-term health;

**"Primary health services"** means universally accessible, first-level contact, clinic-based health services essential to enable the prisoner population to acquire, maintain and promote health;

**"Prison hospital"** means accommodation and amenities specifically allocated to treat prisoners in need of direct in-patient bedside care;

**CHAPTER II****CUSTODY OF ALL PRISONERS UNDER CONDITIONS OF HUMAN DIGNITY****2. Admission to prison**

- (1)
  - (a) The Head of Prison or any correctional official authorised by him or her must take into safekeeping the money, valuables and any other articles in the possession of a prisoner on admission to the prison or during the period of imprisonment.
  - (b) The Commissioner may prescribe by Order the conditions for and circumstances under which taking into safekeeping, release or disposal of such money, valuables or other articles may take place.
- (2) Every prisoner who is admitted to a prison must bath or shower as soon as possible after admission, as prescribed by Order.
- (3)
  - (a) Every prisoner and every cared-for child must, within twenty four hours after admission and before being allowed to mix with the general prisoner population, undergo a medical examination by either a medical officer or a registered nurse, who must report on the health status of such prisoner or child and confirm such person's medical history.
  - (b) If a registered nurse has conducted such a medical examination he or she must refer the case of the prisoner or cared-for child to the medical officer as soon as reasonably possible if any of the following conditions are identified;
    - (i) the prisoner or cared-for child who, upon admission to the prison had been injured, was ill or has complained that he or she is injured or ill;

- (ii) the prisoner or cared-for child is using prescribed medication or receives medical treatment;
  - (iii) the prisoner or cared-for child is receiving continued or ancillary medical treatment;
  - (iv) the prisoner is pregnant; or
  - (v) there exists any other condition with regard to the prisoner or cared-for child which the registered nurse on reasonable grounds believes requires the medical officer to issue the admission report.
- (b) The medical officer or registered nurse must screen all prisoners admitted to the prison for communicable, contagious or obscure diseases and record the presence thereof, as prescribed by Order.
- (4) (a) The registered nurse must upon admission record any medical assistance device in possession of a prisoner.
- (b) Such device may not be removed without the written instruction of the attending medical practitioner.
- (5) Any medicine in possession of a prisoner must be recorded and handed to the registered nurse who must deal with it as prescribed by Order.
- (6) (a) The possession of an emergency identification locket or bracelet by a prisoner or cared-for child and the condition identified by it must be recorded by the registered nurse.
- (b) Such a locket or bracelet may be worn by the prisoner unless it constitutes a security risk.
- (7) A prisoner may only mix with the general prisoner population after being medically assessed.

### 3. Accommodation

- (1) In every prison provision must be made for general sleeping and in-patient hospital accommodation, consisting of single or communal cells or both.
  
- (2)
  - (a) All cell accommodation must have sufficient floor and cubic capacity space to enable the prisoner to move freely and sleep comfortably within the confines of the cell.
  - (b) All accommodation must be ventilated in accordance with the National Building Regulations SABS 0400 of 1990 issued in terms of section 16 of the Standards Act, 1993 (Act No. 29 of 1993).
  - (c) Any cell utilised for the housing of prisoners must be sufficiently lighted by natural and artificial lighting so as to enable a prisoner to read and write.
  - (d)
    - (i) In every prison there must be sufficient, accessible ablution facilities that must be available to all prisoners at all times.
    - (ii) Such facilities include access to hot and cold water for washing purposes.
    - (iii) In communal sleeping accommodation ablution facilities must be partitioned off.
  - (e)
    - (i) Every prisoner must be provided with a separate bed and with bedding which provides adequate warmth for the climatic conditions and which complies with hygienic requirements as prescribed by Order.
    - (ii) In equipping a prison hospital, provision must be made for a standard range of hospital beds, bedding and clothing that specifically suit the needs for effective patient care.

- (f) Whenever separate prisons for males and females are established on the same site or on separate sites but in proximity of each other, or whenever separate sections of a prison are available for the reception of male and female prisoners, the following requirements must be observed:
  - (i) The locks of the doors and gates of the prison or section for males and those of the prison or section for females must not correspond.
  - (ii) The keys of a prison or section for females must be permanently in the possession of a female correctional official.
  - (iii) Any male person visiting a prison or section for females must be accompanied by a female correctional official during the full period of such visit.
- (g) Prisoners of a particular security classification must be detained separately from prisoners with a different security classification.
- (h) Prisoners between the ages of 18 and 21 years must be detained separately from prisoners who are over the age of 21 years.
- (i) Prisoners suffering from mental or chronic illness or whose health status will be affected detrimentally or whose health status poses a threat to other prisoners if detained in a communal cell must be detained separately on request of the medical officer or registered nurse.

#### **4. Nutrition**

- (1) Each prisoner must be provided with a diet consisting of a minimum protein and energy content of:

- (a) 2 000 kilo calories per day for adult females;
  - (b) 2 500 kilo calories per day for adult males; and
  - (c) 2 800 kilo calories per day for children, between the ages of 13 and 18 years of which at least 0.8 grams per kilogram of body weight per day must be from the protein group.
- (2) The diet must provide for a balanced distribution of food items amongst the five major food groups, namely:
- (a) food items rich in calcium;
  - (b) food items rich in protein;
  - (c) vegetables and fruits;
  - (d) cereals; and
  - (e) food items rich in fats and oils.
- (3) Food must be stored, prepared, cooked and served in compliance with the provisions of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and the principles of good hygiene.

## **5. Clothing and bedding**

- (1) On admission to a prison, a sentenced prisoner must be provided with a complete outfit of clothing and bedding as prescribed by Order and only the clothing issued may be worn, except when otherwise determined by the Commissioner.
- (2) When an unsentenced prisoner is issued with prison clothing, such clothing must be different from that issued to sentenced prisoners.
- (3) A prisoner may be allowed to wear for religious or cultural purposes such attire as prescribed by Order.

**6. Exercise**

- (1) The medical officer must certify whether the following categories of prisoners are fit to exercise:
  - (a) a prisoner who is injured, ill or complains that he or she is injured or ill;
  - (b) a prisoner who receives any prescribed medicines and or medical treatment;
  - (c) a prisoner who receives continued or additional medical treatment; and
  - (d) a prisoner who is pregnant.
  
- (2) In respect of each prisoner other than a prisoner mentioned in sub regulation (1), a medical officer or registered nurse must issue a certificate stating whether or not the prisoner is fit for exercise.
  
- (3) If a registered nurse in considering whether a prisoner is fit for exercise, is of the opinion that the prisoner is subject to any condition which should be evaluated by a medical officer, the registered nurse must refer the prisoner to the medical officer for a decision as to whether the prisoner concerned is fit for exercise.

**7. Health care**

- (1)
  - (a) Primary health care must be available in a prison at least on the same level as that rendered by the State to members of the community.
  - (b) When a prison is built, specifications must set for that part of the facility which will be utilised for the purposes of health care.

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- (2) The services of a medical officer and a dental practitioner must be available at every prison.
  - (3) The prison's medical officer is responsible for the general medical treatment of prisoners and must treat a prisoner referred to him or her as often as may be necessary.
  - (4) A registered nurse must attend to a sick prisoner as often as is necessary, but at least once a day.
  - (5) If a prisoner is attended to by his or her own medical practitioner of choice such medical practitioner must provide written reports to the medical officer made pursuant to the findings of any special examination, diagnoses, proposed treatment, interventions and treatment regimes that may be prescribed by the medical practitioner.
  - (6) Upon the illness of or injury to a prisoner, resulting in the prisoner's hospitalisation or his or her removal to an institution for treatment of a mental affliction, the Head of Prison must inform the prisoner's spouse, partner or next of kin accordingly.
  - (7)
    - (a) A prisoner may not, even with his or her consent, be subjected to any medical, scientific experimentation or research.
    - (b) A prisoner may not participate in clinical trials except with the Commissioner's approval given on application made by the prisoner.
  - (8)
    - (a) A request from a prisoner to donate or receive an organ or tissue by donation, in accordance with the provisions of the Human Tissue Act, 1983 (Act No. 65 of 1993) must be approved by the Commissioner.

- (b) A request from a person to receive any form of artificial fertilization in terms of the provisions of the Human Tissue Act, 1983 (Act No. 65 of 1983) from a prisoner must be approved by the Commissioner. A prisoner may not receive any form of artificial fertilisation.
  
- (9)
  - (a) A prisoner may not be sterilised at State expense unless the procedure is required for medical reasons as certified by the medical officer.
  - (b) The Commissioner may approve an abortion at State expense only in the circumstances contemplated in sections 2(1)(b)(i), (ii) or (iii) and 2(1)(c) of the Termination of Pregnancy Act, 1996 (Act No. 92 of 1996).
  
- (10)
  - (a) The provision of medical assistance devices, but not including surgical implants, to prisoners at State expense must be prescribed by Order.
  - (b) All medical assistance devices issued to or received by a prisoner from outside the prison must be recorded.
  
- (11) The medical officer, environmental health officer or registered nurse must inspect the prison at least once a month and report as prescribed by Order to the Commissioner on problems concerning environmental health conditions and health related issues.
  
- (12)
  - (a) After release or placement under community corrections an injured prisoner is entitled to medical treatment at departmental expense for an injury sustained in prison until the injury is healed.
  - (b) Such a person may be required to report to a prison for further treatment after release or placement under community corrections.

- (c) A person injured after release or placement under community corrections is not entitled to treatment at Departmental expense.
- (13)
- (a) A prisoner who is certified in terms of Chapter 4 of the Mental Health Act, 1973 (Act No. 18 of 1973) may not be detained in a prison and must be removed to a designated health establishment as defined in section 1 of that Act.
  - (b) Before the transfer of such a prisoner the prisoner must be placed under the special care of the medical officer.

## **8. Contact with Community**

- (1) The Head of Prison must give special attention to the development and maintenance of good family relationships between prisoners and their family members and other relatives.
- (2) The Head of Prison must convey any important information regarding a prisoner's family, relatives or friends that may come to his or her attention, to the prisoner as soon as practicable.
- (3) On admission to a prison or when a prisoner is transferred, subject to the provision of Regulation 25(1)(b), the Head of Prison must, allow the prisoner to notify his or her spouse, partner or next of kin in the manner prescribed by Order, unless otherwise requested in writing by the prisoner.
- (4) The Head of Prison may authorise a correctional official, in writing, that communications between a prisoner and a member of the public, including letters, telephone conversations and communications in the course of a visit, be opened, read,

listened to or otherwise intercepted if not a subject of a legal privilege, by a correctional official, mechanical device, or electronic device, where the Head of Prison believes on reasonable grounds:

- (a) that the communications contain or will contain evidence of:
  - (i) an act that will jeopardise the security of the prison or the safety of any person; or
  - (ii) a criminal offence or a plan to commit a criminal offence; and
- (b) that the interception of such communication is the least restrictive measure available in the circumstances.

- (5) Where a communication is intercepted under sub-regulation (4) the Head of Prison or the correctional official designated by him or her must as soon as reasonably practicable inform the prisoner, in writing, of the reasons for the interception and give the prisoner an opportunity to make representations with respect thereto, unless the information would adversely affect an ongoing investigation, in which case the prisoner will be informed of the reasons and given an opportunity to make representations with respect thereto on completion of the investigation.

## **9. Death in prison**

- (1) (a) The Head of Prison must keep a record and report all deaths in prison, such record and report must reflect all the particulars required by Order.
- (b) A deceased prisoner must be buried by the Head of Prison at a burial place in the magisterial district where he or she was detained, but the Commissioner may,

upon written request of the spouse, partner or next of kin allow them to remove and bury the deceased at their own expense.

- (c) For humanitarian reasons the Commissioner may at the written request of the spouse, partner or next of kin, allow the deceased prisoner to be transported at State expense to another magisterial district. The cost of the burial is to be born by the person requesting the transportation as prescribed by Order.

#### **10. Development and Support Services**

- (1)
  - (a) Social work services must be rendered to sentenced prisoners and persons under community corrections who have a need for such services. Those services may be rendered only by a social worker duly registered as such in terms of the Social Work Act, 1978 (Act No. 110 of 1978).
  - (b) If the need for social work services arises at a prison or community corrections office where those services are not available, the relevant Head of Prison or Head of Community Corrections, as the case may be, must take the necessary steps to ensure that those services are made available as soon as possible to cater for that need.
- (2)
  - (a) Education and training services must be rendered to sentenced prisoners who have a need for such services, subject to paragraph (b), those services will be rendered in accordance with education and training programmes.
  - (b) The education of sentenced prisoners must be in accordance with the educational system of the country.

- (c) A qualified academic or technical educationist must, subject to paragraph (d), render those services.
  - (d) If such a qualified educationist is not available, a correctional official may be designated by the correctional official in charge of education and training programmes to perform these duties. However such a correctional official must be trained in the principles of academic or technical instruction.
  - (e) If such a qualified educationist or trained correctional official is not available, the Commissioner may appoint a temporary correctional official or voluntary worker who is qualified for the purpose, to perform the duties of such an educationist. Such Correctional Official, however, must be trained in the principles of academic or technical training.
- (3) (a) Psychological services must be available to all sentenced prisoners and persons under community corrections who have a need for such services. Psychologists and psychometrics who are to be trained as counsellors must be registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974).
- (b) If such psychologists and psychometrists are not available at a prison and the need for such services arise, the Head of the Prison must take the necessary steps to ensure that such services are available. A prisoner may also utilise his or her psychologist of choice but at own expense.

#### 11. Recreation

Recreational activities as prescribed by Order must be provided in all prisons for the benefit of the mental and physical health of prisoners.

**12. Access to legal advice**

- (1) A prisoner may consult with his or her legal practitioner in connection with legal matters subject to the conditions determined by the Commissioner.
- (2) A consultation contemplated in sub regulation (1) is subject to the following:
  - (a) A legal practitioner must lodge proof of his or her identity and status as legal practitioner at the request of the Head of Prison;
  - (b) Such a consultation must take place only between 08h00 and 15h30 unless the Head of Prison, due to the existence of urgent or exceptional circumstances has given his or her prior permission;
  - (c) The consultation must take place in sight but out of earshot of a correctional official;
  - (d) The legal practitioner may be allowed to utilise his or her own interpreter, secretary or typist; and
  - (e) If a particular legal practitioner is refused access to the prisoner the prisoner may request to consult with another legal practitioner.

**13. Reading material**

- (1) A properly organised library containing literature of constructive and educational value, as prescribed by Order, must as far as reasonably practicable, be established and maintained at every prison.
- (2) A prisoner may receive reading material from outside the prison in the manner as prescribed by Order.
- (3) A correctional official may inspect an envelope or package sent or received by a prisoner to the extent necessary to determine

whether the envelope or package contains any article that may pose a danger to the security of the prison or the safety of any person, but the correctional official may not read the contents of the envelope or package, except in the circumstances contemplated in Regulation 8(4).

- (4) The Head of Prison or a correctional official designated by him or her may prohibit:
- (a) the entry into the prison or the circulation within the prison of any publication, video or audio material, film or computer program that he or she believes on reasonable grounds would jeopardise the security of the prison or the safety of any person; and
  - (b) the use by a prisoner, including the display of, any publication video or audio material, film or computer program that he or she believes on reasonable grounds –
    - (i) would likely be viewed by other persons; and
    - (ii) would undermine a person's sense of personal dignity by demeaning the person or causing personal humiliation or embarrassment to a person, on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth.
- (5) (a) Documents and correspondence between prisoners and their legal practitioners may not be censored if they relate to legal matters.
- (b) Documents and correspondence between prisoners and their legal practitioners that purport to relate to legal matters may be examined only to determine whether in fact they do relate to such matters.

**14. Discipline**

- (1)
  - (a) The disciplinary hearing must be conducted as soon as possible, and if practicable within 14 days from the date the accused prisoner was informed of the charge against him or her, such notification may not be less than 7 days before the hearing.
  - (b) At every disciplinary hearing conducted by a disciplinary official, a correctional official, herein called the case presenter, will be appointed to arrange and co-ordinate the proceedings.
  - (c) At such a hearing the rules of the law of evidence will apply and evidence to prove or disprove any fact in issue, may be submitted in writing or orally.
  - (d) The disciplinary official must keep a full record of the proceedings, and it must be signed by him or her on conclusion of the proceedings.
  - (e) Every person testifying in such a hearing must take the prescribed oath or affirmation.
  - (f) The case presenter and the accused prisoner or the legal practitioner representing the accused prisoner, if any, may address the disciplinary official on the merits of the case.
  - (g) The disciplinary official must make a finding of guilty or not guilty on a balance of probabilities.
  - (h) If the disciplinary official makes a finding of guilty, the case presenter and the accused prisoner or the legal practitioner, if any, may address him or her on the appropriate penalty.
- (2)
  - (a) The disciplinary official may decide who will be allowed to attend the hearing.

- (b) If a disciplinary official is of the opinion that the accused prisoner is not mentally capable of understanding the proceedings he or she must refer the accused prisoner to a psychologist who must report on the ability of the prisoner to stand the hearing.
- (c)
  - (i) The case presenter must make arrangements for the attendance at the disciplinary hearing of the witnesses and the accused prisoner, including witnesses the accused prisoner may request to give evidence.
  - (ii) The case presenter may issue a subpoena, in the Order prescribed form, to any person to attend the hearing, to give evidence or produce any document or article in support of the charge or in defence of the accused prisoner.
- (d) A subpoena served on a person required to give evidence or to produce any book, record, document or article at the hearing must be signed by the disciplinary official and the service thereof will be subject to the rules of court applicable to the service of such process in a summary trial on a criminal charge in a magistrate's court.
- (e) Any person summoned as a witness at a disciplinary hearing to give evidence or to produce any document or article, who fails to attend such hearing or to produce any document or article or to answer any question put to him or her is guilty of an offence and is liable for a period of imprisonment not exceeding 6 months or to such imprisonment without the option of a fine or both.
- (f) If a witness makes a false statement under oath or affirmation knowing the same to be false, he or she is guilty of an offence and is liable on conviction for a period of imprisonment not exceeding 6 months or to such imprisonment without the option of a fine or both.

**15. Safe custody**

- (1) The Commissioner determines the security measures applicable at prisons.
- (2)
  - (a) A prisoner who is removed temporarily from a prison must at all times be in the safe custody of a correctional official subject to paragraph (b).
  - (b) Where a prisoner temporarily removed from a prison is to appear before a Court, or for purposes of a criminal investigation he or she may be placed in the safe custody of a member of the South African Police Services instead.
- (3) If a prisoner is temporarily removed from a prison, all necessary precautions must be taken to protect him or her from public abuse or curiosity.

**16. Searches**

- (1) A search contemplated in section 27(2) (b), (c), (d) and (e) of the Act:
  - (a) must be undertaken in the prison hospital, clinic or public hospital depending on the procedure necessary to conduct the search;
  - (b) will not include the administering of vomitories or enemas; and
  - (c) must at all times be witnessed by a correctional official of the same gender as the prisoner, who must record the outcome of the search.
- (2)
  - (a) Any prisoner detained for the purposes of a search contemplated in terms of section 27(2)(e) of the Act must be detained in a single cell.

- (b) Every such prisoner must be visited at least once a day by the Head of Prison, and his or her health status assessed at least once every four hours by a registered nurse.

**17. Identification**

- (1) The name, age, height, mass, full address, distinctive marks of a prisoner and other particulars as may be required must be recorded in the manner prescribed by Order.
- (2) If required the fingerprints and photographs of a prisoner must be taken, as prescribed by Order.

**18. Mechanical restraints**

- (1) If a prisoner is restrained by means of mechanical restraints a correctional official may only use one or more of the following mechanical restraints:
  - (a) handcuffs;
  - (b) leg-irons and-cuffs;
  - (c) belly chains;
  - (d) plastic cable ties;
  - (e) electronically activated high-security transport stun belts;
  - or
  - (f) patient restraints, where applicable.
- (2) An electronically activated high security transport stun belt may only be used for the purpose of restraining a prisoner when outside a cell.

**19. Non-lethal incapacitating devices**

- (1) The only non-lethal incapacitating devices that may be used by a correctional official are the following:

- (a) chemical agents;
  - (b) electronically activated devices; or
  - (c) rubber missiles.
- (2)
- (a) A prisoner may under no circumstances be allowed to handle any type of teargas.
  - (b) Gas masks must be issued to correctional officials who are involved in a situation in which teargas is used.
  - (c) The Head of Prison or the Head of Community Corrections must decide when teargas in the form of either cartridges or grenades must be used.
  - (d) The Head of Prison or the Head of Community Corrections must decide to which correctional officials teargas or spray-cans may be issued in the performance of their custodial duties.
  - (e) The seal of a teargas canister may only be broken if it is to be used.
  - (f) Teargas grenades may only be used in the open air. In buildings teargas cartridges and teargas canisters must be used.
  - (g) If teargas is used measures must be applied, if necessary, to provide prisoners with first aid or medical treatment.

## 20. Firearms

- (1) Whenever a firearm is fired, except for the purpose of training, the correctional official must report the incident and the action taken, in the manner prescribed by Order, to the Head of Prison, or the Head of Community Corrections as soon as practicable.

- (2) When correctional officials armed with firearms report for duty they must load their firearms according to the prescribed firearm training instructions. The same procedure must be followed with the unloading of firearms after completion of duty.
- (3) When correctional officials handle firearms they must adhere to the general safety measures in the manner prescribed by Order and training manuals.

## **21. Other weapons**

- (1) Other weapons that may be used are:
  - (a) Baton-type equipment; and
  - (b) Pyrotechnical equipment.
- (2) The use of such weapons is restricted to the purposes described in sections 33(3) and 34(3) of the Act.
- (3)
  - (a) Batons may only be used by correctional officials trained in the specific techniques for the use of batons.
  - (b) Such training must be done by qualified trainers and correctional officials must receive refresher training at least once every six months.
  - (c) The Head of Prison or the Head of Community Corrections decides to which correctional officials batons may be issued.
- (4) If batons are issued it must be recorded in a register and the use thereof be dealt with as prescribed by Order.

- (5) (a) Pyrotechnical equipment may only be issued to trained correctional officials appointed by the Commissioner as members of Emergency Support Teams and then only for purpose of training or during emergency situations.
- (b) Pyrotechnical equipment may only be used on the direct instructions of the Emergency Support Team leader.
- (c) The issuing of pyrotechnical equipment must be recorded in a register.
- (d) Such equipment must be used according to the procedures prescribed in the orders.
- (e) (i) Apart from the initial training correctional officials authorised to use pyrotechnical equipment must receive refresher training at least on quarterly basis.
- (ii) All training must be done by a qualified person.

### CHAPTER III

#### SENTENCED PRISONERS

#### 22. Classification of sentenced prisoners

- (1) Subject to the provisions of sections 7(3), 29, and 39 of the Act, a sentenced prisoner must be classified according to the security risk he or she poses, taking into account his or her suitability for treatment and training at a prison.
- (2) The Commissioner determines the classification in accordance with the following principles:
  - (a) individual classification in so far as the period of sentence permits and an analysis and assessment of the prisoner's previous record, aptitude, qualification or previous training, ability and other personal factors;
  - (b) the maintenance of regular contact with, spouse, partner and next of kin; and
  - (c) insofar as the duration of sentence permits, the application of progressive and flexible reclassification.

#### 23. Labour of sentenced prisoners

- (1) Prisoners must, in accordance with the prevailing conditions, at the workplace, at all times be issued with the necessary protective clothing, footwear and other items that may be necessary to protect their health and safety.
- (2) (a) The Commissioner may contract with any institution or person for the utilisation of the labour or service of prisoners upon such terms and conditions as may be agreed between the parties.

- (b) The products of the labour or service in a prison may be sold to any person on such conditions as may be determined by the Commissioner.
  
- (3)
  - (a) Every sentenced prisoner must, subject to the provisions of the Act, and also subject to any order of the court, be utilised and trained in such manner as the Commissioner may determine.
  - (b) Such a prisoner must at all times perform labour, tasks and other duties as may be assigned to him or her for the purpose of such utilisation or training or for any other purpose connected with such prison.
  
- (4) A sentenced prisoner may not work more than 8 hours a day, unless the Commissioner, in terms of a classification scheme or course of treatment or otherwise, order that a prisoner be exempted from work on any day during any period.
  
- (5) A prisoner may not perform work for another prisoner, a correctional official or a private person or body without the approval of the Commissioner.
  
- (6)
  - (a) On Sundays a prisoner may only perform that work which is prescribed by Order and which is essential for cleanliness and hygiene in and around the prison where he or she is detained, and work which is essential to provide for the basic needs of the prison population and for the purposes of animal production.
  - (b) Paragraph (a) also applies to religious days of rest, other than Sundays, with reference to the faith to which a prisoner adheres, and to other non-religious public holidays determined by the Commissioner.

- (c) A prisoner may on the days referred to in paragraph (a) and (b) be allowed to perform other work as prescribed by Order.
  - (d) A prisoner must be exempted from one day of compulsory work for each day's work as described in paragraph (a), (b) and (c) above or be compensated in such other way as prescribed by Order.
- (7) If the nature of a specific place of work is in conflict with the religion or culture of a prisoner an alternative workplace must be allocated to the prisoner.

#### **24. Case Management Committee**

- (1) (a) A Case Management Committee consists of at least three correctional officials one of whom is designated by the Commissioner as chairperson of that Committee.
  - (b) A member of the Case Management Committee holds office for a period as determined by the Commissioner.
- (2) The chairperson must, as often as the Commissioner may determine, convene a meeting of the Committee.
- (3) The chairperson together with at least two other members of the Committee constitutes a quorum.
- (4) The chairperson must determine the agenda and procedure of meetings of the Committee.
- (5) (a) A decision of the majority of members present at a meeting constitutes a resolution of the Committee.
  - (b) In the case of an equality of votes on any matter, the chairperson has a casting vote in addition to a deliberative vote.

- (6) (a) In compiling the report contemplated in Section 42 (2)(d) of the Act the Committee is subject to the guidelines provided for in the Order to ensure uniformity in applying departmental policy.
- (b) A summary of the reasons for a recommendation on a prisoner's conditional placement or release must be provided to the Court, Correctional Supervision and Parole Board or the Area Manager who decides on the placement or release of a prisoner.

**25. Location and transfer of prisoners**

- (1) (a) When a prisoner is transferred the Head of Prison or a correctional official authorised by him or her must, subject to paragraph (b) convey the reason for the proposed transfer to the prisoner and allow the prisoner to make a representation in this regard, which must be recorded in writing, where after the Head of Prison or the authorised official may take a decision on the proposed transfer.
  - (b) If the transfer is for security reasons the Head of Prison or the authorised official need not inform the prisoner of the proposed transfer, but the prisoner must be informed of the reasons as soon as practicable after his or her admission to the place where he or she is transferred to and must be allowed an opportunity to make a representation in this regard as well as an opportunity to notify his or her spouse, partner or next of kin in the manner prescribed by Order.
- (2) If a prisoner or cared-for child is being transferred, his or her medical history file and any prescribed medication must be transferred with him or her.

- (3) The correctional official in charge of education and training must be consulted when the transfer of a prisoner, who is a learner and involved in an education or training programme or who is involved in a final examination, is being considered.

**CHAPTER IV****UNSENTENCED PRISONERS****26. General provisions**

Unsentenced prisoners, must perform such duties as may be necessary to maintain the good order and cleanliness of any cell, room or other place occupied by them and may be permitted to perform other labour.

**CHAPTER V****COMMUNITY CORRECTIONS****27. Supervision Committee**

The Supervision Committee established at every community corrections office consists of the following:

- (a) the correctional supervision official; and
- (b) a monitoring official who is responsible for the monitoring of the offender and at the discretion of the chairperson, a social worker or psychologist if necessary and, if practicable, a person from the community who is an expert in behavioural sciences.

**28. Monitoring**

- (1) Electronic monitoring devices must be compact, un-obstructive and allow persons under community corrections as far as possible to carry out their normal daily activities.
- (2) The electronic monitoring device must be fitted to the ankle or wrist without causing a risk to the person's health.

- (3) Electronic monitoring equipment may be installed in the residence and workplace of the person under community corrections or the victim.

**CHAPTER VI**  
**RELEASE FROM PRISON AND PLACEMENT UNDER CORRECTIONAL SUPERVISION**  
**AND ON DAY PAROLE AND PAROLE**

**29. Length and form of sentence**

- (1) A person sentenced to periodical imprisonment, in terms of section 285 of the Criminal Procedure Act, must serve the sentence in uninterrupted periods of not less than 24 hours and not more than 96 hours at a time as determined, with due regard to such person's employment, by the Head of Prison, at which the person surrenders him or herself to undergo such imprisonment.
- (2) Subject to the provision of sub regulation (2) the Head of Prison must determine the periods of imprisonment with due regard with the circumstances of the person serving periodical imprisonment.
- (3) A period of less than 24 hours may be ordered if -
  - (a) on the strength of the written application of the employer of the person serving periodical imprisonment, the Head of Prison decides that in the special circumstances of such person's employment a shorter period is justified; or
  - (b) any unexpired portion of the remainder of the sentence of periodical imprisonment is less than 24 hours.
- (4) Where a person serving a sentence of periodical imprisonment is released pending his or her return to prison to serve one or more further periods of periodical imprisonment in completion of that sentence, the Head of Prison must serve a notice on such person stipulating –

- (a) particulars of the sentence of periodical imprisonment;
  - (b) the period already served;
  - (c) the period still to be served; and
  - (d) particulars of where and when the person must report to serve the next period and containing any other instruction that reasonably may be regarded as necessary for that purpose.
- (5) Whenever a person's period of periodical imprisonment expires at any time after 15h00 on any day and before 06h00 of the following day, the person's release may be postponed with his or her written consent.
- (6) Reasonable steps must be taken to prevent a prisoner serving periodical imprisonment from associating with other categories of prisoners.

**CHAPTER VII****INTERNAL SERVICE EVALUATION****30. Departmental inspectors, investigators and auditors**

- (1)
  - (a) The Commissioner must appoint correctional officials as departmental inspectors, investigators and auditors to perform the functions as set out in section 95 of the Act.
  - (b) An inspector, investigator or auditor may be appointed to perform those functions within the Republic as a whole, or a particular province or area.
  - (c) Officials appointed as inspectors, investigators and auditors will be issued with a certificate or letter of appointment and an identity card to that effect.
- (2) In order to fulfil the functions as set out in section 95 of the Act, the departmental inspectors, investigators and auditors may enter any departmental premises and also have access to, or search and seize any Departmental record or document.
- (3) Any person who hinders or obstructs or refuses to comply with the lawful instructions of Departmental inspectors, investigators and auditors is guilty of an offence and is liable on conviction to a fine, or in default of payment, to imprisonment for a period not exceeding one year or to such imprisonment without the option of a fine or both.

**CHAPTER VIII****HUMAN RESOURCES- AND WORK ORGANISATION MATTERS****31. Work facilities**

The Commissioner may allocate official residential accommodation to a correctional official for occupation for such period and under such conditions as he or she may determine.

**32. Work hours**

The Commissioner determines the hours of work for correctional officials.

**33. Discipline**

Correctional officials are subject to the disciplinary code and procedure as provided for in resolution 1 of 2001 in the Departmental Bargaining Council as reflected in Schedule A and B hereto.

**34. Emergency work**

In an emergency, the Commissioner may require from a correctional official to perform work outside his or her normal hours of work.

**35. Medical examination**

- (1) (a) Any report received by the department from a medical practitioner and which is to the effect that a correctional official has become or is likely to become medically unfit to remain in the service of the Department must be submitted to the Commissioner without delay.
- (b) Upon receipt of such a report, the Commissioner -
  - (i) may require the correctional official concerned to undergo a further medical examination as a

prerequisite to convening Medical Board proceedings in terms of regulation 37; and

- (ii) may, if so satisfied, convene such proceedings. However, nothing in this paragraph precludes such a correctional official from being granted sick leave in the interim.

### **36. Medical Board proceedings**

- (1) The Commissioner must convene a Medical Board to consider and determine whether any correctional official who allegedly has become on medical grounds unfit to remain in the service of the Department, and is in fact medically unfit for that purpose.
  
- (2) A correctional official whose case is considered by a Medical Board may, at his or her own expense arrange for a medical practitioner of his or her own choice and a trade union representative to be present at the proceedings of the Medical Board.
  
- (3)
  - (a) The Medical Board must consist of medical practitioners designated by the Commissioner.
  - (b) The proceedings of the Medical Board must be recorded and must duly reflect all documentary and oral evidence and representations by that Board including those tendered or made by or on behalf of the correctional official concerned and all medical and other reports, and must include the Board's findings, recommendations and report.
  - (c) The record must be duly signed by the members of that Board.

- (4) The Commissioner may determine the form in which the report of a Medical Board must be submitted.
- (5) The Commissioner, may with due regard to the findings and recommendations of a Medical Board and if consistent therewith -
  - (a) grant further sick leave to the correctional official concerned;
  - (b) discharge the correctional official due to medical unfitness for duty; or
  - (c) instruct the correctional official to resume duty.
- (6) For the purposes of this regulation and regulation 36, medical unfitness means any physical or mental illness or disability which renders a correctional official unfit for his or her duties or to perform efficiently.

### **37. Leave**

The following categories of leave may be granted to correctional officials:

- (a) vacation leave;
- (b) sick leave;
- (c) special leave;
- (d) leave without pay;

as prescribed by Order, and may prescribe by Order such deviations from leave conditions as are justified.

### **38. Establishment of Correctional Services Facilities Fund**

- (1) A Correctional Services Facilities Fund was established in terms of the provisions of the Correctional Services Act, 1959 and continues to exist in terms of section 134 (1) (jj) of the Act.

- 
- (2) (a) The administration and control of the fund is vested in a Board of Trustees with the powers, functions and duties as prescribed by Order.
- (b) The Board consists of the Commissioner as chairperson or, in his or her absence, a Chief Deputy Commissioner or Deputy Commissioner, appointed by the Commissioner for this purpose and such other members as are necessary and are appointed by the Commissioner for a stipulated period.
- (3) The purpose of the Fund is to, in the interest of the Department, make provision for grants or loans:
- (a) to Correctional Services clubs for the promotion of sport and recreation;
- (b) for the establishment and maintenance of holiday resorts;
- (c) to correctional officials for the purpose of study or research;
- (d) for any other purpose which, in the opinion of the Board Trustees, is meritorious and in the interest of the Department.
- (4) The assets of the fund consist of:
- (a) monies, assets and investments, together with accrued interest or dividends which, with the approval of the Commissioner, have been paid or transferred by any existing Correctional Services benefit fund or association of the fund, for its sole benefit and ownership;
- (b) any grants made by the State; and
- (c) any other donations to the Fund, interest or dividends from investments, and any other income.

**39. Establishment of departmental canteen**

- (1) The Commissioner may approve the establishment of a departmental canteen contemplated in section 132 of the Act.
  
- (2)
  - (a) A departmental canteen established in terms of sub regulation (1) must be controlled by a committee of which the Area Manager concerned will be the chairperson. The committee will be constituted and exercise its functions as prescribed by Order.
  
  - (b) Any profits, assets or any proceeds from the liquidation of a departmental canteen may be distributed by the committee, as may be determined by the Commissioner, for any purposes contemplated in section 132 of the Act, or for the common benefit or welfare of correctional officials, pensioners, civilian employees and their dependants.
  
  - (c) A departmental canteen must be conducted on business principles and, with the exception of accommodation or other necessities which may be provided by the State and any expenditure which the Commissioner may, in consultation with the Department of State Expenditure, authorise from public funds, must be self-supporting.
  
- (3) A Correctional Services canteen must be managed for the sole use or benefit of:
  - (a) correctional officials;

- (b) civilian employees of the Department;
- (c) civilian persons employed in any work in or in connection with a Correctional Services canteen;
- (d) the families of persons referred to in paragraph (a) up to and including (d);
- (e) persons to whom permission, referred to in section 99 of the Act, has been granted to be present in a prison; and
- (f) prisoners in detention.

**40. Access to prisons**

- (1) The Head of Prison must allow the following persons access to the prison under conditions as prescribed by Order:
  - (a) healthcare workers and their support staff;
  - (b) environmental health officers; and
  - (c) any person with a statutory inspecting authority.
  
- (2) Any person who is allowed access to a prison in terms of the Act or the Regulations is required to sign the official visitors register of such prison and subject to satisfactory confirmation of identity, such signature will be sufficient authority for admission to such prison.

**41. Delegation of authority**

The Commissioner may delegate any power vested in him or her by these regulations to any correctional official.

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## DISCIPLINARY PROCEDURE

### 1. PURPOSE

The purpose of the Disciplinary Code and Procedure is:

- To ensure that all disciplinary action against employees takes place in a fair manner (**consistent, uniform, timely, impartial and confidential**).
- To correct the unacceptable behaviour of employees;
- To ensure that the DCS attains its goals in an orderly manner;
- To act in a preventative, progressive and rehabilitative manner in respect of employees;
- To ensure that employees have job security;
- To support constructive labour relations in the DCS;
- To promote mutual respect between employees and employer;
- To ensure that managers and employees share a common understanding of misconduct and discipline;
- To provide employees and the employer with a quick and easy reference for the application of discipline;
- To prevent arbitrary or discriminatory actions by managers towards employees.

### 2. PRINCIPLES

The Disciplinary Code and Procedure and any decision to discipline employees must be based on the following principles:

- Discipline is a corrective measure and not a punitive one;
- Discipline must be applied in a prompt, fair, consistent, uniform, timely, impartial, confidential and progressive manner;
- Discipline is a line management function;
- The Disciplinary Code is necessary for effective service delivery and for the fair treatment of employees. It ensures that employees:
  - Have a fair hearing in an informal or formal setting;
  - Are timeously informed of allegations of misconduct made against them;

- Receive written reasons for a decision taken; and
  - Have the right to appeal against any decision.
- 
- As far as possible, disciplinary procedures shall take place in the place of work and be understandable to all employees;
  - Employees can only be disciplined for work-related misconduct;
  - If an employee commits misconduct that is also a criminal offence, the criminal procedure and the disciplinary procedure will continue as different and separate proceedings;
  - Disciplinary proceedings do not replace or seek to imitate court proceedings.

### **3. SCOPE OF APPLICATION**

The Disciplinary Code and Procedure is applicable to all employees employed in the Department of Correctional Services (excluding the Commissioner in respect of whom the provisions of the Public Service Act shall apply).

### **4. DISCIPLINARY SANCTIONS / ACTIONS**

Disciplinary action can be informal or formal.

#### **4.1 Informal disciplinary action**

Informal disciplinary action entails performance counselling/verbal reprimands/warnings in respect of minor transgressions, usually after the first or second transgression. Depending on the nature and seriousness of the transgression, it is not a prerequisite that formal disciplinary actions be preceded by informal disciplinary actions.

#### **4.2 Formal disciplinary action**

Disciplinary action will usually be applied progressively. This implies that repeated similar or related offences might result in more serious disciplinary action. However, depending on the nature and seriousness of the transgression, a first transgression can result in serious disciplinary action.

##### **4.2.1 Verbal warning**

Although a verbal warning is a sanction usually imposed following informal disciplinary measures, it is also an option to

be considered following formal disciplinary measures for a first offence if found during the hearing that the offence was indeed a minor transgression.

4.2.2 Written warning

A written warning can be imposed indicating to the employee that his or her behaviour is unacceptable to Management and that a similar or related transgression could result in more serious disciplinary action.

4.2.3 Serious written warning

When a transgression is committed which is similar or related to a previous transgression in respect of which a written warning is still valid, or if a transgression is committed which is serious enough, a serious written warning may be issued.

4.2.4 Final written warning

When a transgression is committed which is similar or related to a previous transgression in respect of which a previous serious written warning is still valid, or if a transgression is committed which is serious enough, a final written warning may be issued. A final written warning is an indication to the employee that a similar or related transgression could in all probability result in dismissal.

4.2.5 Dismissal

Should a transgression be committed which is similar or related to a previous transgression in respect of which a final written warning is still valid, it can result in the dismissal of the employee.

If the presence of the dismissed person is undesirable in the workplace for a very good reason during the notice period, such a person can be dismissed with "payment in lieu of notice". This implies that the dismissed person will receive payment for thirty days in the place of the notice period and shall not return to work.

Furthermore, an employee can be summarily dismissed for an extremely serious transgression after application of this procedure. This course of action may even be followed in respect of a first transgression. In such a case an employee will not be entitled to a notice period.

**NB:** If an employee lodges an appeal upon a dismissal sanction, he or she remains in service until the outcome the appeal hearing.

## **5. VALIDITY DURATION OF WARNINGS**

- 5.1 A verbal warning is valid for three months.
- 5.2 All written warnings are valid for a period of six months.
- 5.3 At the expiry of warnings, it must be removed from the employee's personnel file and other related records and be destroyed.

## **6. LEVEL OF RESPONSIBILITY AND AUTHORITY TO TAKE DISCIPLINARY ACTION**

Discipline is a line-management function. The Commissioner shall delegate powers to different levels of line-management for the application of discipline.

## **7. THE DISCIPLINARY PROCESS**

When a transgression is committed which requires disciplinary action, the following process shall be followed:

### **7.1 Investigation**

Upon being informed of an alleged transgression, the direct supervisor or investigator appointed by Management must investigate the incident. The investigation can be informal (in the event of a minor transgression) or formal (in the event of more serious misconduct).

The supervisor must inform the employee of any formal investigation, the results of which may be used at the disciplinary inquiry.

### **7.2 Incident report**

Once the investigation has been completed and a decision taken to discipline an employee the direct supervisor/appointed Initiator must complete an incident report.

**(Annexure A).**

### **7.3 Notice of disciplinary hearing / inquiry**

7.3.1 Employees must be given reasonable time, but at least seven (7) working days' written notice of the disciplinary hearing. The notice period can be waived upon mutual agreement between the alleged transgressor and the Initiator.

7.3.2 The notice must be in writing by means of the applicable notification form, which will indicate the alleged transgression as well as the date, time, and venue of the hearing **(Annexure B)**. The notice of the disciplinary hearing must contain information regarding the alleged transgression and the rights the employee is entitled to, and as is reasonably required to enable the employee to prepare for the hearing. It must include a clear description of the offence – i.e. the charges must be properly defined/formulated to provide a clear description of the alleged misconduct.

7.3.3 Upon being informed or notified of a disciplinary hearing, the employee may request the presence of his or her shop steward or union official or fellow employee to assist him or her. If the employee cannot secure the presence of his or her shop steward or union official or fellow employee within 24 hours, the employer shall continue to serve the notice on the employee in the presence of any witness.

7.3.4 Together with the notification, the employer must furnish the alleged transgressor with a summary of the investigation report and with a copy of statements. However, in order to protect witnesses from possible victimisation, the names and Persal numbers must be deleted or blocked out from the summary of the investigation report and the copy of statements. Cognisance must also be taken that not all disciplinary hearings will be preceded by formal investigations and or written statements by witnesses.

#### **7.4 Time frame**

The formal disciplinary hearing should be finalised within a period of 30 days from the date of finalisation of the investigation. If the time frame cannot be met, the parties involved must be informed accordingly with reasons for the delay. If the employer, without good reason, fails to institute disciplinary proceedings within a period of 3 (three) months after completion of the investigation disciplinary actions shall fall away.

#### **7.5 Arrangements for a disciplinary hearing**

The Initiator and the Head Personnel are co-responsible for arranging a venue, date and time for a disciplinary or appeal hearing and for notifying all involved parties.

The venue must be large enough to accommodate all persons that ought to be present. Since disciplinary and appeal hearings are held *in camera*, the venue should be free from any interruption.

#### **7.6 Persons present at the disciplinary hearing:**

Disciplinary hearings are regarded to be confidential and shall be held *in camera*. Only the persons mentioned hereafter should be allowed to be present.

**Chairperson** – to preside in the disciplinary hearing. The Chairperson must be conversant with the requirements and steps for a fair procedure and with the rules of evidence.

**Initiator and assistant** – To argue or present the employer's case against the alleged transgressor.

**Alleged transgressor** - (Accused/defendant)

**Representative(s)** - (shop steward or union official or fellow employee) representing the accused. Refer to clause 7.11.1

**Human Resource representative** – To advise the parties about the Procedure and to submit evidence about the disciplinary and personal record of the alleged transgressor.

**Interpreter** - At the commencement of hearing the Chairperson shall establish the necessity of an interpreter. The interpreter must be acceptable to all parties. Refer to clause 7.11.5

**Secretary** - A competent person to record or minute the proceedings.

**Witnesses** – May only be present when testifying.

### **7.7 Recusal of the Chairperson**

Provision is made that the Chairperson may be requested to recuse him or her from presiding in a disciplinary or appeal hearing. Refer to the Disciplinary Procedure Manual.

### **7.8 Hearing in absentia**

Provision is made that a disciplinary or appeal hearing may continue under certain circumstances in the absence of the alleged transgressor. Refer to the Disciplinary Procedure Manual.

### **7.9 Withdrawal of the hearing**

Provision is made that a disciplinary hearing may be withdrawn under certain circumstances. Refer to the Disciplinary Procedure Manual

### **7.10 Withdrawal of charges or acquittal**

Provision is made that charges against an alleged transgressor may be withdrawn, either before the alleged transgressor has pleaded or whilst the disciplinary hearing is in progress. Refer to the Disciplinary Procedure Manual.

### **7.11 Rights of employees**

#### **7.11.1 The right to representation**

Every employee has the right to be represented by a fellow employee, shop steward or union official of his or her choice.

An affiliated employee, i.e. an employee who belongs to an employee organization admitted/recognized by DCS, is entitled to be represented by at most two (2) representatives (shop steward(s) and/or union officials) of his or her choice.

An unaffiliated employee, i.e. an employee who does not belong to an employee organisation, is entitled to be represented by only one representative (a fellow employee) of his or her choice.

A legal practitioner may not represent either the employer or the employee, unless the employee is a legal practitioner. For this purpose, a legal practitioner is defined as a person admitted to practice as an advocate or lawyer in South Africa.

#### **Rules regarding representation**

An alleged transgressor may be represented by a fellow employee or shop steward from another Management Area/ within or outside his or her province under certain conditions. Refer to the Disciplinary Procedure Manual.

##### **7.11.2. Right to be heard**

The alleged transgressor has the right to state his or her side of the case and to submit evidence in his or her defence, or to remain silent.

##### **7.11.3 The right to witnesses**

The alleged transgressor has the right to call witnesses.

##### **7.11.4 The right to cross-examination**

The alleged transgressor and/or his or her representative and the Initiator have the right to be present when witnesses are called and have the right to question and cross-question witnesses regarding relevant matters. An alleged transgressor/representative and the Initiator have the right to re-examine their own witnesses after cross-examination

##### **7.11.5 The right to an Interpreter**

An impartial fellow employee shall be used for this purpose. Refer to clause to 7.6.

7.11.6 The right to appeal

A transgressor has the right to appeal against the verdict and/or sanction imposed during a disciplinary hearing. Refer to clause 7.16.

**7.12 The pre-hearing phase**

A pre-hearing meeting may take place between the Initiator and the representative of the alleged transgressor in an attempt to exchange information, clarify charges and any matter relevant to the disciplinary hearing and to eliminate aspects that may destruct the flow of the hearing.

**7.13 The Disciplinary Hearing (Ensuring procedural fairness)**

The following steps must be applied in complying with the *audi alterem partem*- rule:

- 7.13.1 The chairperson with delegated authority must preside over the disciplinary hearing. At the commencement of the hearing the chair shall state the ground rules, read the charges and request the alleged transgressor to plead;
- 7.13.2 The Initiator shall lead evidence on behalf of the employer and argue the employer's case. The alleged transgressor or his or her representative may question any witness introduced by the Initiator;
- 7.13.3 The alleged transgressor shall be given the opportunity to lead evidence, either by him or herself and/or through witnesses. The Initiator may question any witness the alleged transgressor may introduce;
- 7.13.4 The chair may ask witnesses questions for clarification only related to matters already raised;

- 7.13.5 After having heard both the Initiator and the alleged transgressor, the chair must come to a finding (guilty/not guilty) on the balance of probabilities and must inform the Initiator and alleged transgressor accordingly;
- 7.13.6 If the alleged transgressor was found guilty, and before imposing a sanction, the chair must afford the transgressor the opportunity to present evidence in mitigation. The Initiator may present aggravating circumstances and the chair must consider the presence of extenuating circumstances;
- 7.13.7 The chair must consider the evidence heard and come to a decision.

**However, for a pro-forma model containing the steps aimed at ensuring a procedurally fair disciplinary hearing, refer to the Disciplinary Procedure Manual.**

**7.14 Considering a verdict and suitable sanction (Ensuring substantive fairness)**

The Chairperson must consider the requirements for substantive fairness. Refer to the evenly numbered clause in the Disciplinary Procedure Manual.

**7.15 Procedure for admission of guilt**

Provision is made for a shortened procedure should the alleged transgressor indicate his intention to plead guilty. Refer to the Disciplinary Procedure Manual.

**7.16 Appeals**

**7.16.1 Grounds for appeal**

An employee has the right to appeal against the verdict and sanction imposed in a disciplinary hearing.

The following general grounds of appeal may exist:

- 7.16.1.1 Substantive fairness - The allegation that the disciplinary measure is too strict in view of the circumstances.
- 7.16.1.2 The allegation that the chairperson of the hearing had been prejudiced.
- 7.16.1.3 The allegation that gross procedural errors occurred during the disciplinary hearing or that a fair procedure was not followed.
- 7.16.1.4 Should the employee wish to lead new evidence which was not available at the time of the hearing and the employee was not at fault in the failure to lead such evidence, or if the evidence could not reasonably be obtained by him or her.

7.16.2 Application for appeal

- 7.16.2.1 **NB.** – If an employee lodges an appeal following his or her dismissal, he or she remains in service until the outcome of the appeal hearing.

If an employee does not exercise the right to appeal (dismissal cases) in terms of clause 7.11.6 the sanction become effective from the date upon which the sanction was handed down, (i.e. 30 days' notice/30 days' payment in lieu of notice/summary dismissal).

- 7.16.2.2 Provision is made for a procedure that an employee must follow when applying for an appeal. Refer to the Disciplinary Procedure Manual.

### 7.16.3 Persons involved in the appeal

**Appeal Chairperson** - a line manager of higher grade than the Chairperson of the disciplinary hearing to preside in the hearing;

**Initiator and an assistant** – Initiator of the (initial) disciplinary hearing will normally officiate in the appeal hearing to argue on behalf of the employer. The employer may appoint another Initiator if he or she so wishes;

**Appellant** - (employee who appeals);

**Representative** for the appellant - (Shop steward/union official/fellow employee);

**Human Resource representative** - to advise participants about the Procedure – not compulsory;

**Interpreter** - (if necessary);

**Secretary** – a competent person to record/minute the proceedings; and

**Witnesses** - to testify on behalf of the employer or appellant.

### 7.16.4 The appeal procedure

7.16.4.1 At the commencement of the appeal hearing the chairperson must confirm the grounds for the appeal.

7.16.4.2 The appellant or representative must be given the opportunity to address the chair and motivate the grounds for appeal. Witnesses may be introduced. The initiator may question the witnesses of the appellant.

- 7.16.4.3 Following the evidence of the appellant, the initiator must be given the opportunity to address the chair and to argue on behalf of the employer in response to the evidence of the appellant. The initiator may introduce witnesses and the appellant or representative must be given the opportunity to question the witnesses of the Initiator.
- 7.16.4.4 The chair may ask witnesses questions for clarification;
- 7.16.4.5 After having heard both parties, the chairperson must:
- 7.16.4.5.1 **In a non-dismissal case** - come to a finding on the balance of probabilities and present his finding;
  - 7.16.4.5.2 **In a dismissal case** – in the event of a **not guilty** verdict, acquit the appellant and adjourn the hearing; or
  - 7.16.4.5.3 **In a dismissal case** – in the event of a **recommendation of guilty**, adjourn the hearing to forward a recommendation about a suitable verdict and sanction to the delegated authority for a decision.

**However, for a pro-forma model containing the steps aimed at ensuring a procedurally fair appeal hearing, refer to the Disciplinary Procedure Manual.**

7.16.5 Recommendation to the delegated authority

For the procedure for making recommendations to the delegated authority, refer to the Disciplinary Code & Procedure Manual.

7.16.6 Appeal sanctions

The delegated authority may impose one of the following sanctions:

7.16.6.1 Not guilty and set aside the verdict and sanction imposed in the disciplinary hearing;

7.16.6.2 Guilty and uphold the (initial) sanction imposed in the disciplinary hearing;

7.16.6.3 Guilty and award a less severe sanction; or

7.16.6.4 Guilty and award a more severe sanction. If the appeal chairperson is of the opinion that the misconduct warrants the penalty of dismissal, he or she may not come to a decision, but must adjourn the hearing to forward a motivation to this effect to the delegated authority via the Legal and Labour Relations offices who must make an objective and independent recommendation to be considered by the delegated authority before coming to a decision; or

7.16.6.5 Order a complete re-hearing by a new impartial chairperson, only if found that the initial hearing

contained gross procedural errors that were material to the employee's dismissal, or on request of the appellant.

8. **GENERAL MATTERS**

For an explanation of applicable terminology, refer to the Disciplinary Procedure Manual.

**Annexure A: Incident Report**

<b><u>Incident Report</u></b> <b><u>Annexure A</u></b>	
Name: ..... Post title: ..... Section: ..... Supervisor's name: ..... Supervisor's post title: .....	
<b><u>Incident</u></b>  Date of incident: ..... Time of incident: ..... Place of incident: .....  Nature of incident (Specify fully) ..... .....	
<b><u>Witnesses (if any)</u></b>  1. Name: ..... Post title: ..... Section: ..... 2. Name: ..... Post title: ..... Section: .....	
..... Signature of supervisor	..... Date
..... Signature of employee	..... Date
..... Signature of witnesses	..... Date
..... .....	
• Should an employee refuse to sign, the supervisor and the witnesses must note such refusal.	
Received by the Head of Personnel on ..... (date).  ..... Signature of Head of Personnel	

*Continued on next page*

**Annexure A: Incident Report, Continued**

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Usage

This form must be filled in, in triplicate and disposed of as

follows:

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<b>First copy</b>	<b>Second copy</b>	<b>Third copy</b>
Employee/Alleged transgressor	Supervisor	Personnel section

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**Annexure B: Notification of disciplinary hearing**

<b>Notification of Disciplinary Hearing</b> <b>Annexure B</b>		
1. Issued to: Name: ..... Post title: ..... Section: .....		
2. You are hereby notified that a disciplinary hearing will be held on ..... 20 ..... at ..... Description of the alleged offence/charges/code violation. .... ..... Date of alleged offence: ..... Time: ..... Place: .....		
If not enough space add on P21 – Additional pages must be initialised		
3. You have the right to: <ul style="list-style-type: none"> <li>• a fellow-employee/shop steward as representative,</li> <li>• call witnesses to state your case,</li> <li>• submit evidence to support your case, and</li> <li>• an interpreter, if necessary.</li> </ul> } (Refer to clause 7.11 of the Disciplinary Procedure Manual)		
It is your own responsibility to ensure that these persons are present and to provide the supervisor with their names and the sections in which they are employed before .....		
..... <b>Signature of Supervisor/Initiator (Add full names and contact telephone number in print)</b>		..... <b>Date</b>
<b>I hereby acknowledge receipt of the notification</b>		
..... <b>Signature of employee</b>	..... <b>Date</b>	..... <b>Time</b>
..... <b>Signature of witness / representative</b>	..... <b>Date</b>	..... <b>Time</b>

*Continued on next page*

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**Annexure B: Notification of disciplinary hearing, continued**

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**Usage**

This form must be filled in, in triplicate and disposed of as follows:

<b>First copy</b>	<b>Second copy</b>	<b>Third copy</b>
Employee/Alleged transgressor	Supervisor	Personnel section

---

## Annexure C: Warning

### Warning Annexure C

Issued to: ..... Section: .....  
 Persal no: ..... Post title: .....  
 Date and time of offence: .....

Offence/Complaint: .....

#### **Disciplinary Measure**

In view of the offence described above, the following warning is issued (delete whichever is not applicable):

- A verbal warning (valid for 3 months)
- A written warning (valid for 6 months)
- A serious written warning (valid for 6 months)
- A final warning (valid for 6 months)

Should you be found guilty of a further similar offence whilst this warning is in force, the disciplinary action then imposed will be affected by this warning. In terms of the Department's Disciplinary Procedure, you have the right to appeal against this decision.

Refer to clause 7.11 of the Disciplinary Procedure Manual.

..... Signature and name in print :	..... Post title	..... Date
Chairperson of disciplinary hearing		

The signing of this warning by the employee means that he or she acknowledges that he or she received a warning and that he or she understands the contents thereof.

In the event of the employee's refusal to sign, any person who was present when the warning was issued must sign.

..... Signature of employee	..... Date
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..... Witness and/or representative	..... Date
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**NB:** At the expiry of warnings the form must be removed from the employee's personnel file and other related documents and be destroyed.

*Continued on next page*

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**Annexure C: Warning, Continued****Usage**

This form must be filled in, in triplicate and disposed of as follows:

<b>First copy</b>	<b>Second copy</b>	<b>Third copy</b>
Employee/Alleged transgressor	Supervisor	Personnel section

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### Annexure D: Notification of dismissal

<b>Notification of Dismissal Annexure D</b>		
Issued to: ..... Section: ..... Persal no: ..... Post title: ..... Date and time of offence: ..... Offence/Complaint: ..... ..... .....		
<b>Disciplinary Measure</b>		
Due to the offence described above, your services with the Department of Correctional Services are  terminated with 30 days' notice.  terminated with 30 days' payment in lieu of notice.  summarily terminated.		
(Delete whichever is not applicable)		
You may appeal against this decision in terms of the disciplinary procedure. If you apply for an appeal you will remain in service until the outcome of the appeal – refer to paragraph 7.16.2.1 of the Disciplinary Procedure.		
..... <b>Signature: Chairperson of disciplinary hearing</b>	..... <b>Post title</b>	..... <b>Date</b>
<b>The signing of this notification by the employee means that he or she acknowledges that he or she received the notification and understands the contents thereof.</b>		
..... <b>Signature of employee</b>	..... <b>Date</b>	
<b>In the event of the employee refusing to sign, any person who is present when the notification is issued can sign as witness.</b>		
..... <b>Signature of witness and/or representative</b>	..... <b>Date</b>	

**Annex D: Dismissal continued**

**Usage**                      This form must be filled in, in triplicate and disposed of as follows:

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<b>First copy</b>	<b>Second copy</b>	<b>Third copy</b>
Employee/Alleged transgressor	Supervisor	Personnel section

---

## Annexure E: Appeal form

**Appeal Form**  
**Annexure E**  
**Part 1**

This form must be completed by the employee who wishes to appeal against the disciplinary measures imposed. The completed form must be handed over to the Head of Personnel within the period specified in the Disciplinary Procedure.

Employee's name: ..... Persal no: .....  
 Post title: ..... Section: .....  
 Disciplinary action: ..... Date: .....  
 Supervisor: .....

Furnish the reasons/grounds for appeal: .....  
 .....  
 .....

Reasons for late submission (if any): .....  
 .....

.....  
 Signature of appellant/representative

**Part 2**

You are hereby informed that your appeal was maintained/set aside (*delete which is not applicable*).

- Not guilty and set aside the verdict and sanction imposed during the disciplinary hearing.
- Guilty and uphold the sanction imposed in the disciplinary hearing.
- Guilty and award a less severe sanction.
- Order a complete re-hearing

(Delete whichever is not applicable)

..... Signature: Chairperson of Appeal hearing	..... Post title	..... Date
..... Signature of appellant	..... Date	
..... Signature of witness/representative	..... Date	

**Annex E: Appeal form, continued.**

**Usage** This form must be filled in, in triplicate and disposed of as follows:

---

<b>First copy</b>	<b>Second copy</b>	<b>Third copy</b>
Employee/Alleged transgressor	Supervisor	Personnel section

---

### Annexure F: Notification of appeal hearing

<p><b>Notification of Appeal Hearing</b> <b>Annexure F</b></p>		
<p>1. Issued to: Name: ..... Post title: ..... Section: .....</p>		
<p>2. You are hereby notified that an appeal hearing will be held on ..... 20 ..... in ..... at .....</p>		
<p>3. You have the right to:</p> <ul style="list-style-type: none"> <li>• a fellow-employee/shop steward as representative,</li> <li>• witnesses to state your appeal,</li> <li>• submit evidence to support your appeal, and</li> <li>• an interpreter, if necessary.</li> </ul> <p style="text-align: right;">} (Refer to clause 7.11 of the Disciplinary Procedure Manual)</p> <p>It is your own responsibility to ensure that these persons are present and to provide the supervisor/initiator with their names and the sections in which they are employed before the appeal hearing.</p>		
<p>..... <b>Signature of Head of Personnel</b></p>	<p>..... <b>Date</b></p>	
<p><b>I he hereby acknowledge receipt of the notification</b></p>		
<p>..... <b>Signature of appellant</b></p>	<p>..... <b>Date</b></p>	<p>..... <b>Time</b></p>
<p>..... <b>Witness/representative</b></p>	<p>..... <b>Date</b></p>	
<p>To: Head: Personnel/Initiator</p> <p>Representatives and Witnesses required</p> <p>I, ..... confirm that I wish to have the following representatives and witnesses with regard to my appeal hearing arranged for ..... 20.....</p> <p>I have arranged for them to be present on the stipulated date at the stipulated time.</p>		
<p>..... <b>Representative/Appellant</b></p>	<p>..... <b>Date</b></p>	
<p>..... <b>Witness</b></p>	<p>..... <b>Date</b></p>	

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**Annex F: Notification for appeal form, continued**

**Usage** This form must be filled in, in triplicate and disposed of as follows:

---

<b>First copy</b>	<b>Second copy</b>	<b>Third copy</b>
Employee/Alleged transgressor	Supervisor	Personnel section

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## SCHEDULE B DISCIPLINARY CODE

The Disciplinary Code contains a list of unacceptable behaviour/offences within the DCS. It is not an all-inclusive list.

The Department of Correctional Services is committed to applying the principle of progressive discipline. However, cognisance must be taken that although this Code distinguishes between transgressions which could result in summary dismissal and other transgressions, an employee can be dismissed for a first offence even if it is listed under "Other Transgressions", if the transgression(s) was/were extremely serious in nature.

The DCS's Code of Conduct, of which a copy is attached hereto, will also form part of this Code. Any actions, which are not in accordance with the Code of Conduct, will justify disciplinary action, depending on the nature and seriousness thereof.

TRANSGRESSIONS WHICH COULD RESULT IN SUMMARY DISMISSAL [A]	OTHER TRANSGRESSIONS [B]
1. <b>Unauthorised absence</b>	1. <b>Unauthorised absence</b>
2. <b>Unsatisfactory performance</b>	2. <b>Unsatisfactory performance</b>
2.1 <b>Gross negligence</b> in the execution of duties.  <b>Note:</b> Gross negligence is defined as any act or omission without considering the possible consequences thereof and where such consequences could be dangerous to human life or limb – an element of recklessness should be present.	2.1 <b>Unsatisfactory work</b> due to negligence, apathy, carelessness, or a lack of interest (e.g. failure to meet return dates, non-compliance with directives, etc.)
2.2 <b>Sleeping on duty</b> whilst guarding prisoners/being in possession of a firearm.	2.2 <b>Sleeping on duty</b> whilst not guarding prisoners/not being in possession of a firearm.

TRANSGRESSIONS WHICH COULD RESULT IN SUMMARY DISMISSAL [A]	OTHER TRANSGRESSIONS [B]
<p><b>3. Gross Insubordination</b></p> <p>3.1 <b>Gross wilful/intentional Insubordination</b>, e.g. refusal to work or to carry out legitimate instructions or any form of gross insubordination towards seniors without just or reasonable cause.</p> <p><b>Definition of gross insubordination.</b>  <b>Gross Insubordination</b> – Include amongst others – the refusal to obey a lawful and reasonable command / request / instruction, resistance to or defiance of authority, or to be disobedient or rebellious and the refusal is wilful / intentional and very serious – a serious challenge to the employer's authority.  The insubordination must be extremely severe and gross.</p>	<p><b>3. Insubordination</b></p> <p>3.1 <b>Insubordination</b>, e.g. refusal to work or to carry out legitimate instructions or any form of insubordination towards seniors without just or reasonable cause.</p> <p><b>Definition of insubordination</b>  <b>Insubordination</b> – Include amongst others – the refusal to obey a lawful and reasonable command/ request / instruction, resistance to or defiance of authority, or to be disobedient or rebellious.</p>
<p><b>4. Dishonesty</b></p> <p>4.1 <b>Bribery or corruption:</b> Presenting or accepting or any attempt to present or accept bribes, or to influence someone or attempt to influence someone to corruption.</p> <p>4.2 <b>Assisting prisoners to escape.</b></p> <p>4.3 <b>Furnishing of false statements:</b> The intentional giving of false evidence or statements or any attempt to give false or misleading evidence/make a false or misleading statement.</p> <p>4.4 <b>Forgery or fraud:</b> The forgery or alteration of any documentation or any other information, or an attempt to commit fraud, alter or misrepresent, or generally to mislead in whatever respect (e.g. knowingly handing in forged medical certificates, or giving false evidence during disciplinary or grievance procedures).</p> <p>4.5 <b>Theft/unauthorised possession of government property:</b>  The theft/unauthorised possession of or any attempt to possess property that belongs to the Department or a prisoner, or any other employee (if work-related)</p>	<p><b>4. Dishonesty</b></p> <p>4.1 <b>Bribery or corruption:</b> Failing to report offers made to a person/fellow employee to the Head of the Prison or to the Area Manager, or any other authority.</p>

<b>TRANSGRESSIONS WHICH COULD RESULT IN SUMMARY DISMISSAL</b> <b>[A]</b>	<b>OTHER TRANSGRESSIONS</b> <b>[B]</b>
<p><b>4.6 Use of prison labour for personal purposes:</b> To instruct a prisoner/probationer under his supervision/control, or any other person subject to community corrections without permission to do so, to perform labour in respect of which he or any other person will benefit, irrespective of whether such labour is done against repayment.</p> <p><b>4.7 Provision, receipt or claiming of money or any other article/reward to/from prisoners or any other person subject to community corrections:</b> Other than in the performance or in terms of the requirements of his duties, to lend, sell, give or issue an article, tools or any other object to a prisoner or buy, borrow or receive as a gift, advantage, profit or other personal reward from a prisoner, or contrary to his duties and under any pretences, accept a promise of or conspire to obtain any of the above from a prisoner or a family member or friend of such prisoner.</p>	
<p><b>5. Disorderly/irregular/ uncontrolled behaviour</b></p>	<p><b>5. Disorderly/irregular/uncontrolled behaviour</b></p>
<p><b>5.1 Threaten and/or incite participation in violence and/or disruption of work and/or in an unprotected strike.</b></p> <p><b>5.2 Victimization of employees</b> e.g. for their membership of a trade union, for reporting corruption, etc.</p> <p><b>Note:</b> Victimization is defined as – To single out a person for punishment or unfair treatment and furthermore, to prey on, go after, pick on, bully, take an advantage of, persecute, oppress, torment, exploit, etc.</p> <p><b>5.3 Intimidation of fellow-workers.</b></p> <p><b>Note:</b> Intimidation is defined as – to inspire with fear, cow, specifically to influence conduct to compel someone to take action which is considered to be undesirable.</p> <p><b>5.4 Sabotage:</b> Any intentional or malicious act to interfere with the records and operations of the Department.</p>	<p><b>5.1 Threatening to cause bodily harm or fighting</b> while on duty.</p> <p><b>5.2 Calling and holding of unauthorised meetings on Departmental property during or after working hours:</b> Prior arrangement must be made with the Head of the Prison (in the case of meetings in the prison) and from the Area Manager (any other place on the prison reserve) for all meetings which take place on Departmental property (The Labour Relations Act, 1995 and the recognition agreements must be complied with).</p> <p><b>5.3 Participation in unprotected industrial actions/strikes/pickets</b> (LRA, Schedule 8, Code of Good Practice: Dismissal, Item 6(1).]</p> <p><b>5.4 Damaging the public image of the Department:</b> Involvement in disorderly behaviour/conduct in the performance of duties in public or to act rudely when performing duties that could damage or adversely affect the public image of the Department.</p>

TRANSGRESSIONS WHICH COULD RESULT IN SUMMARY DISMISSAL [A]	OTHER TRANSGRESSIONS [B]
5.5 <b>Sexual harassment:</b> Behaviour of a sexual nature towards fellow employees and/or prisoners, or any other person subject to community corrections which injures the sexual dignity. Such behaviour is unacceptable if it is offensive to the recipient.	5.5 <b>Sexual harassment:</b> Behaviour of a sexual nature towards fellow employees and/or prisoners, or any other person subject to community corrections which injures the sexual dignity. Such behaviour is unacceptable if it is offensive to the recipient.
5.6 <b>Publication or unauthorised use/misuse of confidential information or any other behaviour which endangers the safety of the Department or which indicates harmful feelings.</b> This also includes the publicising of information obtained in the course of an employee's work, other than in the performance of his official duties, or the use of the information for purposes other than the performance of his activities or official duties, irrespective of whether or not the information is made public.	5.6 Gambling during working hours: Participation in any form of gambling.
5.7 Assault while on duty: Including fighting. (Objective self-defence will not constitute assault).	5.7 Making a fire in an area where this is prohibited.
5.8 <b>Firearms/other dangerous weapons:</b> Unauthorised possession of any firearm or other dangerous weapon/object whilst on duty.	5.8 Failure to report an injury or accident.
5.9 <b>Pointing of firearm:</b> To direct a firearm at any person (except in the scope of duty) or fire a firearm negligently or recklessly.	5.9 Failure to comply with safety standards and procedures.
5.10 Breaching of internal security arrangements.	5.10 Misuse of position for personal gain to the disadvantage of the employer.
5.11 Wilfully, intentionally endangering the lives of self or others by disregarding safety rules or regulations in accordance with the Occupational Health and Safety Act.	5.11 Use of improper language to any other person.
5.12 Misuse of position in the Department / Public Service to promote or to prejudice the interest of any political party.	5.12 Humiliating accusations directed at any other person.
5.13 Wilfully or intentionally discriminating against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the RSA Constitution.	5.13 Indecent gestures and/or signs made to any other person.
	5.14 Without written approval from the Commissioner, performing work during working hours for compensation in a private capacity for another person or organisation.
	5.15 Breaching of conditions pertaining to authorised private work.
	5.16 Discriminating against others on the basis

		of race, gender, disability, sexuality or other grounds outlawed by the RSA Constitution.
		5.17 Operating a money-lending scheme or any other business (without permission) for own benefit during working hours or from the premises of the Department.
<b>6. Alcohol and drugs</b>	<b>6. Alcohol and drugs</b>	
6.1 <b>Trading in prohibited drugs:</b> Trading also means supplying without return.	6.1 <b>Unfit to perform duties properly due to the influence of alcohol or drugs.</b>	
6.2 <b>Trading in alcohol on Departmental premises without official authorisation:</b> Trading also means supplying without return.	6.2 <b>Being in possession of alcohol in his or her place of work, without authorisation.</b> "Possession" does not only mean "on his or her person" but also in a briefcase, luggage compartment which he or she has control over in/at the place of work.	
6.3 <b>Being in possession of prohibited drugs on Departmental premises.</b> "Possession" does not only mean "on his or her person" but also in a briefcase or other luggage compartment which he or she has control over in/at the place of work.		
6.4 <b>Permitting a prisoner, or any other person subject to community corrections to take alcohol or prohibited drugs or to have the above in his or her possession.</b>		
6.5 <b>Using of alcohol without authorisation whilst being on duty.</b>		
6.6 <b>Using of prohibited drugs whilst being on Departmental premises.</b>		
<b>7. Government transport</b>	<b>7. Government transport</b>	
7.1 <b>Driving a government vehicle under the influence of alcohol and/or drugs.</b>	7.1 <b>Misuse of a government vehicle</b> e.g. private use of a government vehicle.	
7.2 <b>Driving a government vehicle without the necessary permission or without a valid driver's licence.</b>	7.2 <b>Reckless and/or negligent driving of a government vehicle.</b>	
7.3 <b>Allowing an unauthorised person to drive a government vehicle whilst being aware of or reasonably expected to be aware of the fact that the said person is not authorised to drive a vehicle.</b>	7.3 <b>Contravening the traffic laws and the municipal bylaws whilst driving a government vehicle.</b>	
	7.4 <b>Neglecting to comply with logistics and other directives in respect of the use of government vehicles:</b> General maintenance of the vehicle, failure to keep record, etc.	

TRANSGRESSIONS WHICH COULD RESULT IN SUMMARY DISMISSAL [A]	OTHER TRANSGRESSIONS [B]
8. Government property	8. Government property
8.1 <b>Damage:</b> Deliberate damaging of Departmental property or property hired by the Department or allowing property in his or her care to be damaged.	8.1 <b>Loss through negligence:</b> Loss of Departmental property through negligence or carelessness or when an employee cannot account for such property to the satisfaction of the Department.
8.2 <b>Misuse/use of government premises to store stolen goods</b>	8.2 <b>Misuse:</b> Incorrect use of property or premises (using equipment for other purposes than it is intended for - in the workplace).  8.3 <b>Unauthorised use of Departmental/ Government property for personal purposes.</b>