

# DISCIPLINARY CODE AND PROCEDURE

## 1 INTRODUCTION

- 1.1 This Disciplinary Code and Procedure is adopted both for the fair treatment of employees who should be aware of the standards expected of them and the success of the company.
- 1.2 The practice and attitudes in the industry change with time and new norms of acceptable industrial relations behaviour emerge. Thus, this document is meant to lay down guidelines rather than rigid standards of behaviour. Accordingly, this Disciplinary Code and Procedure may be altered, amended, varied, modified or added to upon giving reasonable notice thereof by the company to the employee. In addition this Disciplinary Code is not exhaustive of the standards of behaviour expected. Employees who thus commit acts or are guilty of omissions which fall short of acceptable standards will render themselves subject to appropriate disciplinary action. Without derogating from the foregoing the company shall not be obliged to give any warnings in respect of misconduct which would justify summary dismissal at common law (provided that even in such event the company shall permit and afford a fair hearing).
- 1.3 Notwithstanding the fact that certain unacceptable behaviour is prescribed to receive a specified number of warnings in terms of the Disciplinary Code, an employee may be dismissed for accumulated misconduct of a varying nature even although he might not otherwise be liable to be dismissed in respect of any one particular category of misconduct.
- 1.4 The employee acknowledges that the Disciplinary Code (“the code”) and Procedure governs the terms of his employment and undertakes to duly and faithfully observe the code in the performance of his duties.
- 1.5 The code and the procedure recognises:
  - 1.5.1 the right of management to take appropriate disciplinary measures against an employee who has failed to observe the code in the performance of his duties or in relation to the work place or environment;
  - 1.5.2 the right of an employee to be given a fair hearing.
- 1.6 This disciplinary code and procedure shall not apply in cases of industrial action unless the company decides otherwise.
- 1.7 Any reference in this code and procedure to a “worker representative” shall mean a worker representative who is a co-employee.

## 2 THE CODE

- 2.1 The employee shall:
  - 2.1.1 perform his duties in a responsible and diligent manner;
  - 2.1.2 protect and promote the interests of the company at all times to the best of his ability with due regard to the interests of management and his fellow employees;

- 2.1.3 obey and execute with due care and skill reasonable instructions which are given to him;
- 2.1.4 observe the company's normal hours of work;
- 2.1.5 observe the safety rules and regulations prescribed by management and by law;
- 2.1.6 keep his vehicle, utensils, equipment and work place in a good, neat and tidy order and condition;
- 2.1.7 wear the prescribed clothing and safety apparel;
- 2.1.8 promptly report damage to the property of the company;
- 2.1.9 take all steps to ensure that no shortage in stock, materials or cash occurs;
- 2.1.10 be changed into working clothing before he clocks in;
- 2.1.11 be at his station of work at the commencing time of work;
- 2.1.12 report immediately to the production manager (and in his absence the general manager) any injury which occurs at the workplace.
- 2.2 The employee shall not:
  - 2.2.1 commit any act or be guilty of any omission which undermines the industrial peace, growth or stability of the company or the maintenance and promotion of sound employee/management relationships;
  - 2.2.2 absent himself from work without just cause;
  - 2.2.3 report for duty under the influence of alcohol or drugs;
  - 2.2.4 make use of drugs or consume intoxicating liquor whilst on duty or during breaks in the course of working hours;
  - 2.2.5 use or be in unauthorised possession of a dangerous weapon;
  - 2.2.6 wilfully or deliberately damage or cause destruction to or attempt to damage or destroy the property of the company;
  - 2.2.7 embark upon or be involved in or conspire to commit any act of industrial sabotage or espionage;
  - 2.2.8 absent himself from work without permission and in the case of absence on account of illness the failure to present a valid doctor's or registered hospital certificate which certifies and justifies such absence;
  - 2.2.9 commit or attempt to commit theft, fraud or forgery;
  - 2.2.10 be in unauthorised possession of property of the company or any other person;
  - 2.2.11 fight with or assault a fellow employee or attempt to do so;
  - 2.2.12 use abusive or insulting language;
  - 2.2.13 clock in any employee or allow an employee to clock in on his behalf;

- 2.2.14 change from working clothing before the sounding of the hooter in respect thereof.

### **3 PROCEDURE**

- 3.1 In the event of unlawful industrial action, these procedures shall not apply to the dismissal of employees unless the company decides otherwise.

- 3.2 Subject to 3.1, in the event of a breach of the Code the following procedure shall apply:

- 3.2.1 Warnings:

- 3.2.1.1 In the case of:- a breach of clauses 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.1.9, 2.1.10, 2.1.9, 2.1.12, 2.2.2, 2.2.8 and 2.2.14, of the Code, a written warning will be given to the employee by the third authority (the first written warning);

- 3.2.1.2 in the event of the employee persisting in or committing a further breach of clauses 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.1.9, 2.1.10 and/or 2.1.11 of the code after a first warning has been given, a further written warning will be given to the employee by the third authority (the second written warning).

- 3.2.2 The written warning shall:

- 3.2.2.1 be given to the employee, where possible and practical, within 24 (twenty four) hours of such breach being brought to the attention of the third authority;

- 3.2.2.2 set forth the nature of the breach and the consequences thereof;

- 3.2.2.3 be signed by the employee and the third authority and, subject to clause 3.2.3 below should the employee fail or refuse or decline to sign then this fact shall be noted by the third authority on the written document concerned;

- 3.2.2.4 be transmitted to the administrative department of the company and a copy thereof shall be handed to the employee concerned.

- 3.2.3 Should an employee decline or refuse to sign the written warning, when requested to do so by the third authority, then the third authority shall be entitled to request his worker representative or a shop steward to sign the written warning on behalf of the employee, but any failure to sign such written warning shall not invalidate same or any subsequent proceedings.

### **4 THE ENQUIRY**

- 4.1 Should the employee:

- 4.1.1 commit a breach of clauses 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5 2.2.6, 2.2.7, 2.2.9, 2.2.10, 2.2.11 and/or 2.2.13 of the code; or

- 4.1.2 persist in or commit a further breach of clauses 2.1.12, 2.2.2, 2.2.8, 2.2.12 and/or 2.2.14 of the code after a first written warning has been given to the employee; or

- 4.1.3 persist in or commit a further breach of clauses 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.1.9, 2.1.10 and/or 2.1.11 of the code after a second written warning has been given to the employee; an enquiry will be held.
- 4.2 The enquiry will be initiated by the third authority who shall complete a disciplinary action form.
- 4.3 The disciplinary action form shall:
- 4.3.1 where practical and possible be given to the employee within 48 (forty eight) hours of the breach or further breach, as the case may be, being brought to the attention of the third authority;
- 4.3.2 set forth the nature of the breach or the further breach, as the case may be;
- 4.3.3 be signed by the third authority and the employee concerned;
- 4.3.4 be transmitted to the administrative department of the company and a copy thereof shall be handed to the employee.
- 4.4 Should the employee refuse to sign the disciplinary action form when requested to do so by the third authority, the third authority shall be entitled to request the worker committee representative concerned or a shop steward to sign the disciplinary action form on behalf of the employee but any failure to sign such disciplinary action form by the employee or the worker representative, as the case may be, shall not invalidate same or any subsequent proceedings.
- 4.5 The Second Authority shall, where practical and possible, within 7 (seven) days after receipt of the disciplinary action form convene an enquiry which shall be presided over by him and shall be attended by the third authority, the employee and his worker representative or shop steward.
- 4.6 At the commencement of the enquiry the disciplinary action form shall be read to the employee who shall then either personally or with the assistance of his shop steward or any other person in the employ of the company nominated by the employee (who is prepared to assist the employee) be entitled to lead evidence in his defence.
- 4.7 The third authority shall be entitled at any stage of the enquiry to call any person as a witness and to examine such person.
- 4.8 A witness called by the employee may be cross-examined by the third authority and re-examined by the employee.
- 4.9 A witness called by the third authority may be cross-examined by the employee or the shop steward or other representative of the employee recognised as such by the company, as the case may be, and re-examined by the third authority.
- 4.10 The second authority shall be entitled:
- 4.10.1 to put questions to any witness called either by the employee or the third authority;
- 4.10.2 to call any person in evidence and put questions to such person and the third authority and the employee respectively shall thereafter be entitled to put questions to such witness on matters arising from the questions put by the second authority to the witness.

- 4.11 After the evidence has been led, the employee or his said representative shall be given the opportunity to address the second authority.
- 4.12 After the employee or his representative aforesaid has addressed the second authority, the second authority shall consider the evidence admitted at the enquiry and, if satisfied that the employee has committed the breach complained of, shall impose the penalty prescribed in clause 5, provided that if the second authority is satisfied that with due regard to all relevant considerations the imposition of a lesser penalty is in the interests of justice, he shall be entitled to impose such lesser penalty.
- 4.13 The second authority shall, in appropriate circumstances, be entitled to deviate from any or all of the above procedures and to prescribe and regulate the procedure to be applied.

## **5 PENALTIES**

If the second authority is satisfied that the employee concerned has committed a breach of the code, he shall impose the following penalty:

- 5.1 in the case of a breach of clauses 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.1.9, 2.1.10, 2.1.11, 2.1.12, 2.2.2, 2.2.8, 2.2.14 of the code and after the employee has been given a first or second written warning, as the case may be - dismissal;
- 5.2 in the case of a breach of clauses 2.2.1, 2.2.3, 2.2.4, 2.2.5, 2.2.6, 2.2.7, 2.2.9, 2.2.10, 2.2.11, 2.2.12, of the code - summary dismissal.

## **6 APPEAL**

- 6.1 If the employee feels aggrieved by the decision taken by the second authority in the exercise of this powers set out in clause 4 and 5 he may appeal.
- 6.2 The appeal shall be heard by the first authority.
- 6.3 The employee shall complete a notice of appeal.
- 6.4 The notice of appeal will be signed by the employee or his aforesaid representative concerned and delivered to the aforesaid first authority within 72 (seventy two) hours after the employee has been notified in writing of the decision of the second authority.
- 6.5 The appeal shall be heard by the first authority within 72 (seventy two) hours in the ordinary course of work after receipt of the notice of appeal.
- 6.6 The employee may appear and conduct his appeal either in person or with the assistance of a shop steward or any other person in the employ of the company nominated by the employee (and who is willing to so assist) and shall be entitled to be heard in argument. The employee shall not, in the ordinary course, be entitled to lead further evidence at the hearing of the appeal save and except on good cause shown.
- 6.7 The company may appoint any person in the employ of the company to appear on its behalf to oppose the appeal or to represent it at the hearing. Such person shall likewise be entitled to be heard in argument. The company likewise shall not be entitled to lead any further evidence at the hearing of the appeal, save and except on good cause shown.

- 6.8 After hearing argument the first authority may:
- 6.8.1 dismiss the appeal;
- 6.8.2 if he is of the opinion that the second authority has not acted in accordance with the relevant provisions of this code and procedure, give an order opposite to the decision of the second authority or amend the decision of the second authority.
- 6.9 The decision of the first authority shall be conveyed to the employee immediately it is made.

## **7 GENERAL**

- 7.1 A copy of each warning shall be placed on the employee's personnel file.
- 7.2 The hearing of the enquiry shall be minuted.
- 7.3 An employee's work record and previous disciplinary actions taken against such employee shall, amongst other things, be taken into account in determining the severity of any contemplated disciplinary action to be taken against him.
- 7.4 An employee shall be entitled to have an interpreter assist him at the enquiry or the appeal, as the case may be, provided that such interpreter is a person in the employ of the company.
- 7.5 Where an offence by an employee is regarded as serious by the third authority or the second authority, as the case may be, and where it is considered unsafe or patently undesirable for an employee to continue his duties, the employee may be temporarily suspended from duty without loss of remuneration pending the enquiry. The third authority or the second authority, as the case may be, must immediately and by the speediest means report the suspension to the first authority for his confirmation or otherwise of the action taken.
- 7.6 Each written warning shall remain in force for a period of twelve (12) months after the date upon which it is given to the employee.
- 7.7 Cumulative misconduct by an employee may result in his dismissal even though his final incident of misconduct would not otherwise have been adequate in itself to found his dismissal.