

## **PROVINCIAL ABSCONDMENT POLICY**

### **INTRODUCTION**

The Eastern Cape Provincial Administration realizes that there are challenges experienced by Managers in handling abscondments across departments. Some of the challenges are managers inability to deal with officials who resurfaces after a period exceeding on calendar month, some do not make attempt in finding the whereabouts of the absconding officials and some are doing nothing about these cases. The outcome of this improper handling of the abscondment policy leads to inconsistency and in the handling of abscondements in the ECPA and a lack of uniformity.

In view of the aforementioned factor it became apparent that a policy on abscondment be developed in providing guidance to managers, supervisors on how cases of abscondment should be handled. This policy will give broader perspective in dealing with abscondment cases as such Departments may develop department specific policies or implementation guidelines.

### **PURPOSE**

In recognition of the provisions of Section 17 (5) and 17 (5) (b) of the Public Service Act, 1994 (Proclamation No 103 of 1994) as amended, this policy seeks to:

- To prome fairness in the application of the said policy.
- To promote consistency and establish uniform approach in the handling of abscondments in the E.C.P.A.
- To consientise the employees about the consequences of the said provision.
- To promote appropriate handling mechanism of the abscondment cases.

### **LEGISLATIVE FRAMEWORK**

- Public Service Act, 1994 as amended
- Labour Relations Act of 1996
- Labour Relations Policy Framework for the Public Service

Main provision of abscondment emanates from Section 17 (5) (A) (i) of the Public Service Act which reads as follows:

“An officer, other than a manager of the services or an educator or a member of the Agency or Service, who absent himself/herself from his/her official duties without the permission of his or her Head of Department, office or institution for a period exceeding one calendar month shall be deemed to have been

discharged from the Public Service on account of misconduct with effect from date immediately succeeding his / her last day of attendance at his or her place of duty.

17 (5) (a) (ii) If such an officer assures other employment, he or she shall be deemed to have been discharged as aforesaid irrespective of whether the said period has expired or not.

5 (b) "If an officer who is deemed to have been so discharged, report for duty at any time after the expiry of the said period the relevant Executing Authority may on good cause shown and notwithstanding anything to the contrary contained in any law approve the reinstatement of that officer in the Public Service in his or her former or any other post or position and in such a case the period of his or her absence from official duty shall be deemed to be absence on vacation leave without pay or leave on such other conditions as the said authority may determine".

### **SCOPE OF APPLICABILITY**

This Policy shall apply to all employees and or officials appointed in the Public Service in the Eastern Cape Provincial Administration in terms of the Public Service Act, 1994 as amended.

### **PROCEDURE**

If an employee or an official does not report for duties for at least (3) consecutive days without having reported to the supervisor or without the permission of the supervisor the supervisor / manager must:

(1). Make attempts if circumstances permit, to determine the whereabouts of the employee. Those attempts may include:

- Visiting his or her place of residence in the company of the shop steward or a fellow employee and he or she must be given a written instruction that he report for duties and the implications of non compliance should be clearly outlined on the letter (highlights that services could be terminated once exceeding one calendar month.
- In a case where the whereabouts cannot be determined, a delegation or phonogram must be sent to his or her last known address.
- Records of communication should be kept at all times.

(2). If after seven (7) days of absence no reply has been received and an employee has not reported for his duties, the supervisor must send a follow up

registered letter to him or her requesting him or her to return to work and the provision of Section 17 (5) of the Public Service Act should be clearly outlined. Salary to be frozen.

(3). The procedure stipulated in paragraph (2) should be repeated after 14 days and 21 days for as the last attempt. The copies of all the communication should be forwarded with the report after 10 days and after forthcoming steps to the district / Regional offices (whichever is applicable and the Head Office for their information).

### **WAYFORWARD**

If the employee is still not reporting for duties on the expiry of the one (1) calendar month, the responsible manager should report the matter to the Head Office through the normal channels of communication.

This matter should at all times be afforded, the urgency it deserves. The letter informing the employee about the implementation of the provision of Section 17 (5) (a) be communicated to the said employee.

In instances wherein the employee resurfaces after the expiry of 30 calendar days, the manager / supervisor will draw his or her attention to the provision of Section 17(5) **and fast track the** must give him or her the letter, implementing Section 17(5) and if the letter is not yet signed by the HOD or the delegated person, he or she can be informed to wait for his or her letter at his or her residence and the employer must ensure that he or she receives the letter within five (5) working days from the date he or she resurfaced. He or she must not be allowed under any circumstances to resume duties as that will be tantamount to reinstatement.

### **PRINCIPLE OF FAIRNESS IN PROCEDURE**

Audi – Attern Pattern rule must always apply in the following manner.

- The letter that is informing the absconded employee must state his or her right to representation as per Section 17 (5) (b).
- The representation must be forwarded to the relevant Executing Authority, who will upon serious consideration of the facts presented before him will approve or disapprove the reinstatement of that officer.