




## KZN PROVINCIAL TREASURY

### POLICY ON TERMINATION OF SERVICE

<b>Signed:</b>	 <b>MR LS MAGAGULA</b>
<b>Designation:</b>	<b>HEAD OF DEPARTMENT</b>
<b>Date:</b>	26/07/2017



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## **1. INTRODUCTION**

This policy serves to ensure that the Department upholds fair labour practices when dealing with an employee's termination of services. As from 01 January 2008, it was a requirement that exit interviews be conducted for all employees whose employment is terminated on account of incapacity due to ill-health or injury; retirement; resignation; or an employee-initiated severance package.

Termination of services within the public service is contained in a number of prescripts. This policy is developed to augment the necessary regulations regarding the human resource practices and the recovery of contractual and other obligations. It is incumbent on the Department to take into account the skills requirements emanating from termination of employees in the HR Plan.

## **2. PURPOSE**

This policy framework is a collective approach to provide guidelines on the termination of services of employees of KZN Provincial Treasury to ensure that the termination of an employee's services is substantively and procedurally fair.

## **3. DEFINITION OF TERMS**

**"Calendar month"**- means a month starting on the first (1<sup>st</sup>) and ending on the last day of the month in any of the months of the year.

**"Casual employee"**- means a person employed on a day to day basis, who is paid a daily wage and does not work more than 24 hours a month.

**"Employee"** – means an employee as contemplated in the Public Service Act, 1994, as amended.

**"Executive Authority"** – means a member of the Executive Council.

**"GEPF"** – means the Government Employees Pension Fund.



**“HOD”** – means the incumbent of a post as listed in column of schedule 1, 2 or 3 of PSA and includes any employee acting in such a position.

**“Operational requirements”** – means requirements based on the economic, technological, structural or similar needs of an employer.

**“PSA”** – Public Service Act, 1994 as amended.

#### **4. OBJECTIVES**

- (a) To augment the necessary regulations regarding work practices and the recovery of any contractual and /other obligations during the employee termination of service’s process.
- (b) To reinforce the practice of exit interviews for alignment with the Human Resource Plan, Development and Retention Strategies.

#### **5. APPLICABILITY**

The provisions of this policy is applicable to all employees of KZN Provincial Treasury employed in terms of the Public Service Act, 1994 (Proclamation No 103 of 1994), as amended.

#### **6. AUTHORISATION**

The following legal documents and references form the basis of this policy:

- (a) Public Service Act, 1994 (Proclamation No. 103 of 1994), (Hereinafter referred to as the PSA), as amended.
- (b) **Public Service Regulations, 2016.**
- (c) Basic Conditions of Employment Act No.75 of 1997, as amended.
- (d) Labour Relations Act 66 of 1995, as amended.
- (e) PSCBC Resolution 1 of 2003.
- (f) PSCBC Resolution 10 of 1999.
- (g) PSCBC Resolution 3 of 1999.





- (g) Department of Public Service and Administration Circular on Participation of Public Service Employees as Candidates in Elections, Ref 10/8, dated 23/03/2009.
- (h) Department of Public Service and Administration Ministerial Directive to Institutionalise the Practice of Exit Interviews in the Public Service, number 14/1/7/P, dated 15/01/2008.
- (i) Policy and Procedure on Incapacity Leave and Ill-Health Retirement (PILIR) dated April 2009.
- (j) Government Employees Pension Law, 1996, Proclamation 21, as amended.
- (k) Code of Conduct for the Public Service.
- (l) Code of Good Practice On:
  - (i) The Integration of Employment Equity into Human Resource Policies and Practices, published under GN1358 in GG 27866 of 4 August 2005.
  - (ii) Dismissal Based on Operational Requirements, published under GN1517 in GG 20254 of July 1999.
  - (iii) Key Aspects of HIV and Aids and Employment, published under GN R1298 in GG 21815 of 1 December 2000.
- (m) revised Determination on Employee Initiated Severance Package for Employees in the Public Service, Number 1/6/21 dated 30/06/2006.
- (n) **DPSA Circular dated 06/03/2017 on implementation of recommendations made by the Public Service Commission (PSC).**
- (o) **Government Pensions Administration Agency.**

## **7. PRINCIPLES**

- (a) Terminations must be fairly and lawfully effected and must be practised without discrimination against any employee.
- (b) Terminations must be conducted according to fair labour practices and in line with the applicable procedures, including the discipline, grievance and dispute resolution



procedures. For this reason, the Department must ensure that all line managers are provided with relevant training so as to avoid any kind of discrimination.

- (c) Reference to Schedule 8 of the Labour Relations Act, 1995, the Code of Good Practice on Key Aspects of HIV and AIDS and Employment of People with Disabilities must be made for terminations due to incapacity based on disability or chronic illnesses.

## **8. POLICY PROVISIONS**

The White Paper on Human Resource Management in the Public Service states that employees who have served the public service with loyalty must be treated with consideration when they leave. Similarly, employees for whom there is no further operational requirement, or who can no longer perform competently and effectively, must be properly managed out of the Public Service. In cases where an employee's conduct is unacceptable, disciplinary action must be initiated.

### **8.1 Termination of Service in terms of Section 16 of the Public Service Act (Retirement)**

#### **(a) Compulsory Retirement**

- (i) An employee shall have a right to retire, and shall be so retired at the age of 65 years. Conditions as laid down in Section 16 (1) (a) and (b) should be considered when processing this type of termination of service.
- (ii) An employee who has been in service with effect from a date prior to 01 October 1993 and employed in terms of a law repealed by the PSA, as amended, shall have a right to retire at or at any time after the retirement age that is applicable to him or her as at 01 October 1993, and that retirement shall not be amended without his or her consent.
- (iii) If it is in the public interest to retain an employee who has gone beyond the age of 65, in his/her position, he/she may, with his/her consent and the approval of the relevant Executive Authority, be retained periodically in a contract capacity but not exceeding



the aggregate of two years, except with the approval of Parliament granted by resolution.

**(b) Early Retirement**

- (i)** An employee who has the right to an earlier retirement age in terms of paragraph 8 (1) (a), and who wishes to be so retired, shall give written notification to the Head of Department of his/her wish to be so retired. Subsection 16 (2) (b) (i) and (ii) of the PSA, must be taken into account when considering such a request.
- (ii)** An employee who occupies the office of Head of Department shall give notification of his/her wish to be retired from the public service at least six calendar months prior to the date on which he/she attains the said age, wherein provisions of paragraph 16 (2) (b) (i) of the PSA, shall apply.
- (iii)** Notwithstanding the provisions in paragraph 8 (a) (i) and (ii) an employee shall have a right to retire from the public service on the date he or she attains the age of 55 years, or at any date after that date. When exercising this option, the provisions of subsection (2) (b) of the PSA, shall apply with necessary changes for an employee who wishes to retire in terms of paragraph (2)(a) of the same Act. Also, the provision of section 14.3 of the Government Employees Pension Law, 1996 must be taken into consideration when approving all types of early retirement.
- (iv)** An Executive Authority may, at the request of an employee, allow him/her to retire from the public service before reaching the age of 60 year's if sufficient reasons for the retirement have been provided.
- (v)** An Executive Authority may approve this type of retirement with full entitlement to pension benefits as in normal retirement. The Department must exercise restraint when



approving such retirement, as it remains fully responsible for the resultant liability to the GEPF. Therefore, early retirement without scaling down of benefits may, amongst others, be considered on the following grounds:

- (aa) if the retirement will be in the interest of the State due to the significantly deteriorating performance of an employee which is not due to his/her own fault or an inability to satisfactorily perform on a higher level after promotion. Probably this employee would no longer be gainfully employed and the State will be better off without him/her. Employees who are "burnt out", who lack motivation, who are unable to focus and/or concentrate on their work, may fall under this category.
- (bb) if an employee's medical condition is not serious enough to justify ill-health retirement, yet has a negative impact on his/her work performance, for example, regular absence from work on medical grounds.
- (cc) if an employee has grievances, negative and disloyal attitudes that negatively influence his/her work or that of his/her colleagues and the State's performance as a whole.

**(b) Normal Retirement**

An employee who has reached the age of 60 year's may be retired from the Public Service, subject to the approval of the relevant Executive Authority.

**8.2 Termination of Service in terms of Section 17 of the Public Service Act**

**(a) Incapacity Due to Ill Health or Injury**

The Executive Authority may, in terms of the applicable employment legislation, consider, on the basis of medical evidence, the discharge of an employee on account of ill-health and/or injury. Dismissal based on these factors shall occur with due regard to item 10 and 11 of Schedule 8 of the Labour Relations Act. Also,





adherence to the Policy and Procedure on Incapacity Leave and Ill-Health Retirement dated April 2009 must be ensured when processing this dismissal.

**(b) Operational Requirements**

An employee may be discharged from the public service due to operational requirements, owing to the abolition of his/her post or any reduction in or reorganisation or readjustment of the department. Compliance with section 17(2) (b) and (c) of the PSA, sections 189 and 190 of the Labour Relations Act, 1995 and any applicable collective agreement determining benefits for employees to be so discharged must be ensured. The Executive Authority or his/her delegate must approve such dismissal and the Head of Department must ensure that such discharge is procedurally and substantively fair.

**(c) Incapacity Due to Poor Work Performance.**

An employee may be discharged on account of incapacity due to poor work performance if evidence is provided that:

- (i) The employee has consistently failed to perform to the required standards, notwithstanding the application of all remedial measures, including opportunities for improvement provided by the performance management and development system.
- (ii) The employee is incapable of improving or unwilling to improve his/her performance.
- (iii) There is no other job within the organisation, which the employee is capable of performing. In addition, the procedure outlined in the PSCBC Resolution 10 of 1999 must be followed through when dealing with such dismissal.

**(d) Misconduct**

Employees within the public service are required to uphold the highest standard of professional and personal behaviour, as laid down in, amongst others, the Code of Conduct. An employee who is found guilty of misconduct, which is so serious as to



render him or her unsuitable for employment, is in breach of his/her contract may therefore be dismissed. Schedule 8 of the Labour Relations Act, Chapter VI of the PSA and the PSCBC Resolution 1 of 2003 must be adhered to when initiating this dismissal.

**(e) Abscondment**

- (i) If an employee is absent from duty without the permission of the employer for a period longer than three days, the employer must take reasonable steps to contact that employee. What is reasonable will be determined by the circumstances of each case.
- (ii) Notwithstanding paragraph 2 (e) (i) above, an employee who absents himself or herself from his/her official duties without permission of the Head of Department, office or institution for a period exceeding one calendar month, shall be deemed to have been dismissed from the Public Service on account of misconduct with effect from the date immediately succeeding his/her last day of attendance at his/her place of duty; or
- (iii) If such an employee assumes other employment, he/she shall be deemed to have been dismissed as aforesaid irrespective of whether the said period has expired or not. If an employee who is deemed to be so dismissed, reports for duty, at any time after the expiry of the period referred to in paragraph (ii), the relevant Executive Authority may on good cause shown by that employee and notwithstanding anything to the contrary contained in any law, approve the reinstatement of such employee.

**(f) Participation of Employees as Candidates in Elections**

Employees may remain in employment after they have been issued with certificates as candidates in elections. In terms of Section 36 of the PSA, effective on 20 March 2009 (Proclamation No. R. 18 of 20 March 2009), the following applies;

- (i) employees are permitted to be candidates for elections subject to the Public Service Code of Conduct and the limits prescribed by regulation by the Minister for Public Service and Administration.



- (ii) if an employee is elected and assumes office, the employee shall be deemed to have resigned from the Public Service from the date immediately before the date he/she assumes office as a member of the National Assembly or a provincial legislature or as a full-time municipal councillor.
- (iii) an employee elected as a part-time councillor may continue as an employee, however he/she must seek approval in terms of section 30 of the PSA from the Executive Authority to receive remuneration for work outside the public service.
- (iv) If an employee is appointed as a permanent delegate of the National Council of Provinces, he/she shall be deemed to have resigned from the public service immediately before the date he/she assumes office as a delegate.

### **8.3 Other Forms of Termination of Service in terms of other legislation and Prescripts**

#### **(a) Resignations**

- (i) An employee may resign from the Public Service out of his/her own volition at any time by giving notice in writing, as stated in his/her contract of employment. Unless otherwise agreed to with the Executive Authority, the contract should be terminated only on written notice of not less than:
  - (aa) one week, in the case of a **contract/temporal** employee who has been employed for **six months or less;**
  - (bb) two weeks, in the case of a **contract/temporal** employee who has been employed for more than **six months but less than a year;**
  - (cc) one calendar month, in the case of any employee paid monthly or **any official who has been employed for one year or more**
- (ii) Notice of termination of a contract of employment must be given in writing. The written resignation must be submitted via the employee's supervisor/manager to the Human Resources directorate.



**(a) Employee-Initiated Severance Package**

The Executive Authority or his/her delegate may approve voluntary application for discharge from the public service in terms of section 17(2)(c) of the PSA, for an employee who is affected by transformation and restructuring. The procedure, as laid down in the Determination on the Introduction of an Employee-Initiated Severance Package for the Public Service, dated 01 January 2006, must be adhered to, when processing such terminations.

**8.4 Fixed-term contract**

- (a)** The service of an employee who is on a fixed-term contract will automatically cease at the end of that contract period.
- (b)** Subject to the terms and conditions of a contract of employment, as contemplated in section 12(2) of the PSA, an Executive Authority may allow a Head of Department to retire from the Public Service before the expiry of the term provided for in section 12 (2) of the PSA, or any extended term therein if sufficient reasons for retirement have been provided.

**8.5 Death**

Death is regarded as another form of termination of services, which is unpredictable and unplanned. In the case of the death of an employee, a death certificate/affidavit/certified letter must be submitted to the Human Resource Administration Component.

**9. EXIT INTERVIEWS**

- 9.1** The Department must conduct exit interviews with all employees whose services are terminated on account of incapacity due to ill-health or injury, retirement, resignation or employee-initiated severance package so as to obtain information about the





employee's experience during employment. Exiting employees could provide valuable information about barriers and other factors that contribute to staff turn-over.

9.2 For this purpose, the Executive Authority must:

- (a) Designate responsibility for managing the exit interview;
- (b) Determine the manner in which the exit interview will be conducted; and
- (c) Utilise the prescribed exit interview questionnaire.
- (d) Treat the personal details of departing employee as confidential.

## 10. ROLES AND RESPONSIBILITIES

### 10.1 Employee

An employee must notify his/her supervisor in writing of the intention to terminate services given the required period of notice. He/she must ensure that all documentation pertaining to termination is properly completed and submitted timeously.

### 10.2 Supervisors or Line Managers

The supervisor must complete all documentation and notify the Human Resource Component of the termination timeously.

### 10.3 Human Resources Component must:

- (a) Process all transactions to give effect to the termination of service of an employee.
- (b) Ensure that employees are not in service beyond their compulsory retirement date.
- (c) Ensure that exit interviews are conducted, information recorded and stored for safekeeping.
- (d) Treat personal details of departing employee(s) as confidential.



- (e) Ensure the reconciliation and recovery of all contractual and other liabilities from employees exiting the system.
- (f) Ensure that the content of this policy is communicated to all employees and also ensure implementation thereof.
- (g) Employee Health and Wellness Practitioners to offer guidance and counselling to departing employees, as and when required.

#### **11. GRIEVANCE AND DISPUTE RESOLUTION**

Grievances and disputes arising from the implementation of this policy shall be dealt with in terms of the existing dispute resolution procedures in the public service.

#### **12. COMMUNICATION**

The Directorate: Human Resources is responsible for communicating this policy to all employees within the department.

#### **13. MONITORING, EVALUATION AND REVIEW**

The Directorate: Human Resources is responsible for the development and regular review of this policy document.

Any inputs or amendments regarding this policy can be directed to the abovementioned component for the attention: Director: Human Resources.



**KZN PROVINCIAL TREASURY**

**EXIT INTERVIEW QUESTIONNAIRE**

**1. INTRODUCTION**

It is imperative that KwaZulu-Natal Provincial Treasury ensures that it provides a healthy and satisfying work environment and workforce and as far as possible retains its workforce. In order for this to be possible it is vitally important that the Department monitors on a continuous basis how it operates. One of the method's of assessing this is by means of Exit Interviews which are aimed at gathering information from employees leaving the department on their own accord. Such data is essential in improving the Department so that it is more conducive to its employees, as well as determining strategies to retain employees, the ultimate aim being to reduce staff turnover.

This questionnaire closely links in with the Retention Policy for the Department.

**2. PURPOSE**

The purpose of this questionnaire is to gather pertinent information from employees exiting the Department as to the reasons why they are leaving the Department which will ultimately contribute positively to recruiting and retaining employees.

**3. OBJECTIVES**

- To understand the reasons why people are leaving the Department
- Identifying factors that increase retention
- Evaluating the success of the practices for existing employment
- Discovering unethical behaviour or security violations
- Monitor illegal or unethical practices
- Promote goodwill and provide a sense of closure
- Identification of training and developing needs for employees.

**4. QUESTIONS TO BE ASKED AT THE EXIT INTERVIEW**

When Human Resources receive a notification of termination of services, a delegated Human Practitioner will set up an exit interview appointment with the respective employee. **It must be stressed that the employee will not be obliged to divulge personal information.**

The following are possible questions that may be used in the interview process:

4.1 What factors have led you to decide to leave the Department?

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4.2 What factors were most important in choosing your new job?

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4.3 What are your views on management? What is the management doing right or wrong?

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4.4 Did you feel you were given enough support in your job?

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4.5 What did you like most about the Department and what did you like the least?

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4.6 Do you propose any suggestions that will improve the way the Department functions?

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4.7 What can the Department do to retain scarce skills?

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## EXIT INTERVIEW QUESTIONNAIRE

Thank you for taking the time to complete this questionnaire.

The information gathered will prove useful in support of the Department's Employment Equity Plan, for evaluating the Department's Human Resource Management Strategy and ultimately will assist in making the Department a healthier organization. Please return the completed questionnaire under confidential cover to the responsible Human Resource Practitioner.

### EMPLOYEE INFORMATION

1.	Name	
2.	Gender	
3.	Age	
4.	Rank	
5.	Component	
6.	Supervisor	
7.	Final date of Employment	
8.	Are you a member of historically disadvantaged group (i.e. Blacks, Women or Disabled)	
9.	If yes, please indicate the group	
10.	Reason for leaving (Leadership or management style , financial consideration, work environment, career development, lack of effective communication or any other reasons) Please provide details thereof.	



Items 11 through to 32 are designed to measure your degree of satisfaction or dissatisfaction with each item. Please insert the appropriate number for each statement or question:

1. Highly dissatisfied    2. Dissatisfied    3. Neutral    4. Satisfied    5. Highly satisfied  
6. Not Applicable

11. Salary with respect to work performed.		22. Relationship with co- workers	
12. Benefits package		23. Physical environment	
13. Job security		24. Hours of work	
14. Provision of harassment free workplace.		25. Use of new technologies	
15. Amount of travel required for the position.		26. Location of workplace	
16. Respect for official language rights.		27. Opportunity to gain new experience	
17. Qualifications suited to required duties.		28. Learning opportunities	
18. Relationship with supervisor/manager.		29. Relevance of daily tasks to career plan	
19. Relationship with supervisor/manager characterized by dignity and respect.		30. Promotional/career opportunities	
20. Partnership with your colleagues towards a common goal.		31. Balancing your family and work demands (alternate work arrangements)	
21. Recognition of work done.		32. Technical aids and accommodations, if applicable (e.g. wheelchair access, telephones for hearing impaired, magnifiers for visually impaired etc)	

33. Is there anything the Department could have done to have prevented your departure at this time?

Answer:



34. If you are a member of a historically disadvantaged group, was the Department supportive of your needs? Do you have any suggestions that would help create a working environment more receptive to such group members?

Answer:

35. Would you return to work for the Department?

Yes

No

Please state reasons for your answer.

36. Is there anything the Department could be doing on an ongoing basis, which would enrich the work experience for employees?

37. Do you have additional comments or suggestions you would like to offer? Please use a separate page.

Employee: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Interviewer's = impressions, comments and recommendations

Interviewer: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Interview Date:

