

Incapacity Case Finalisation Policy

1. Purpose

This policy provides a **clear framework** for concluding incapacity cases, ensuring that employees are **proactively reintegrated** into the workplace whenever possible. It is designed to balance **employee rights, operational efficiency, and legal compliance** under South African labour laws.

2. Scope

This policy applies to all employees experiencing **temporary or permanent incapacity** due to medical conditions, injuries, or other health-related concerns that impact their ability to perform their duties.

3. Guiding Principles

- **Reintegration First:** The primary goal is to support employees in **returning to work** through reasonable accommodations.
- **Fair and Transparent Process:** Incapacity cases must follow **objective assessments** and clear communication.
- **Compliance with Labour Laws:** All incapacity processes must align with the **Labour Relations Act (LRA)** and **Employment Equity Act (EEA)**.

4. Incapacity Case Resolution Process

4.1 Initial Assessment & Medical Review

- An employee must undergo a **medical evaluation** by an independent health professional.
- The **Health Risk Manager (HRM)** will assess the employee's ability to return.
- If reasonable adjustments can be made, the employer must facilitate **accommodation** before considering termination.

4.2 Employee Return-to-Work Plan

- If an employee is **cleared to return**, the employer must develop a structured **return-to-work plan**, including:
 - Adjusted duties (if applicable).
 - Workplace modifications (if needed).
 - A **gradual reintegration** strategy if full-time return is initially impractical.
- The employer must NOT impose unnecessary medical tests that may be **discriminatory** under the EEA.

4.3 Disputes Over Return-to-Work Decisions

- If the HRM clears the employee to return but the employer disputes this:
 - An **independent medical reassessment** will be required.
 - The employer must **justify** refusal with evidence of operational risks.
 - Employees can challenge **unjustified delays** through the **CCMA**.
- If the employee **wants to return but is required to prove fitness**, they must:
 - Be given access to a **reasonable medical assessment**.
 - NOT be subject to unfair medical tests that violate the **EEA**.

5. Exceptional Cases

5.1 Permanent Incapacity & Alternative Solutions

- If an employee cannot return to work **due to permanent incapacity**, the employer must consider:
 - Alternative roles or modifications before termination.
 - **Medical retirement** options aligned with workplace pension schemes.
 - **Fair severance and compensation**, following **PILIR (Policy on Incapacity Leave and Ill-Health Retirement)**.

5.2 Handling Extended Absences

- If an employee is absent beyond a reasonable timeframe due to incapacity:
 - The case must be **reviewed within three months**.
 - An alternative work solution or redeployment must be **explored** before dismissal.

6. Compliance & Review

- This policy aligns with:
 - **Labour Relations Act (LRA)**
 - **Basic Conditions of Employment Act (BCEA)**
 - **Employment Equity Act (EEA)**
 - **PILIR Guidelines**
- It will be **reviewed annually** to ensure fairness and legal alignment.