

Guidance Note	Forms and Precedents	Checklists	Other Resources
1. GENERAL OVERVIEW AND INTRODUCTION			
1.1 The general principles of labour law			
111 Principles of the common law			Important points on the principles of the common law
112 Fundamental labour rights			
113 Other fundamental rights			
114 Other legislation which impacts the employment relationship			Labour legislation snapshot
1.2 Specific public sector legislation and requirements			
121 National, provincial and local government			Employment legislation snapshot
122 Educators			Employment legislation snapshot

2. THE EMPLOYMENT RELATIONSHIP			
2.1 Start of the employment relationship			
211 Fair and unfair appointments generally			
212 Statutory requirements	Z83 – Application for employment		
213 Advertising a new post		Job Advertisement	Procedure for appointment of educators
			Municipal Managers Regulations
214 Selection and appointments in the public sector	Permanent employment contract in accordance with chapter 5 of the public service regulations 2016, for members of the senior management service (sms)		Advertising of posts in the public service vacancy circular
	Employment contract for a fixed term or a specific project in accordance with chapter 5 of the public service regulations, 2016, for members of the senior management service (sms)		Senior management service handbook
215 Shortlisting and discrimination			Recruitment flowchart
			NEHAWU and Council for Geoscience

Guidance Note	Forms and Precedents	Checklists	Other Resources
216 The applicants duty to disclose			Recruitment flowchart
217 Protecting applicants for employment			
218 Inducting the new employee	Unsuccessful candidate letter		Compulsory induction in the public service
	Offer of employment letter		
219 Challenging an appointment			
2.2 The contract of employment			
221 The nature of employment		Distinguishing between Employees and Contractors checklist	Employee v independent contractor information sheet
222 Employees and independent contractors	Simple independent contract agreement		
223 Terms and condition of employment		Drafting employment contract	Written particulars of employment information sheet
224 Drafting the contract		Drafting employment contract	
225 Fixed-term employment contracts			Circular relating to fixed term contracts
226 Labour brokers and part time employees			PSCBC Resolution 1 of 2015
			PSCBC Resolution 2 of 2015
			PSCBC Resolution 8 of 2015
			PSCBC Resolution 2 of 2016
227 Changing terms and conditions of employment			
228 Breach of contract and remedies			
2.3 Basic conditions of employment			
231 Scope and application of the Basic Conditions of Employment Act			DPSA conditions of service documents (website)
			PSCBC Resolution 1 of 2007
			PSCBC Resolution 2 of 2007
			PSCBC Resolution 5 of 2009

Guidance Note	Forms and Precedents	Checklists	Other Resources
			PSCBC Resolution 1 of 2010
			PSCBC Resolution 3 of 2010
			PSCBC Resolution 4 of 2010
			PSCBC Resolution 2 of 2011
			PSCBC Resolution 1 of 2012
			PSCBC Resolution 1 of 2013
			PSCBC Resolution 2 of 2015
			PSCBC Resolution 8 of 2015
			2015 SALGBC Salary and Wage Collective Agreement
			2015 SALGBC Main Collective Agreement
232 Conditions of employment in the public sector			PSCBC Resolution 2 of 2015
			PSCBC Resolution 8 of 2015
			2015 SALGBC Salary and Wage Collective Agreement
			2015 SALGBC Main Collective Agreement
233 Working hours		Working hours checklist	Code of good practice on the arrangement of good working time
			Determination and Directive on working time
			PSCBC - Resolution 2 of 2015
			2015 SALGBC Salary and Wage Collective Agreement
			2015 SALGBC Main Collective Agreement
234 Leave	Z1(a) - Application for leave of absence		2015 SALGBC Main Collective Agreement
	Form UI2.2 - Application for illness benefits		PSCBC Resolution 2 of 2015
			PSCBC Resolution 10 of 2000
			June 2015 leave determination and directive

Guidance Note	Forms and Precedents	Checklists	Other Resources
			Leave circular
			PSCBC Resolution 1 of 2018
235 Remuneration generally		Employee garnishee checklist	
236 Remuneration in the public sector			PSCBC Resolution 2 of 2015
			PSCBC Resolution 3 of 2008
			PSCBC Resolution 9 of 2008
			PSCBC Resolution 1 of 2009
			PSCBC Resolution 2 of 2009
			PSCBC Resolution 3 of 2009
			PSCBC Resolution 5 of 2009
			PSCBC Resolution 1 of 2010
			PSCBC Resolution 3 of 2010
			PSCBC Resolution 4 of 2010
			PSCBC Resolution 2 of 2011
			PSCBC Resolution 1 of 2012
			PSCBC Resolution 1 of 2013
			2015 Salary and Wage Collective Agreement
			Codes of remuneration
			PSCBC Resolution 1 of 2018
237 Notice of termination	Certificate of service		
238 Other provisions of the Basic Conditions of Employment Act			
239 Enforcement of conditions of employment			2015 SALGBC Main Collective Agreement
			PSCBC Resolution 2 of 2015
2.4 Unfair labour practices			
241 Unfair labour practices and other grievances	Local Government grievance form	General checklist on unfair labour practices	Unfair labour practice information sheet
			Grievance procedures for the public services

Guidance Note	Forms and Precedents	Checklists	Other Resources
			PSCBC information sheet - Grievance rules
			PSCBC Resolution 14 of 2002
			2015 SALGBC Main Collective Agreement
			Steps for resolving a grievance in the educator sector - chapter G: 2016 personnel administrative measures (pam) of 2016
242 Unfairness in promotion and demotion			Unfair labour practice information sheet
243 The provision of benefits			PSCBC Resolution 2 of 2016
			PSCBC Resolution 3 of 1999
			PSCBC Resolution 12 of 2002
			PSCBC Resolution 12 of 2002 Appendix A
			PSCBC Resolution 12 of 2002 Schedule 1
			PSCBC Resolution 12 of 2002 Part 2
			PSCBC Resolution 2 of 2003
			PSCBC Resolution 3 of 2005
			PSCBC Resolution 7 of 2005
			PSCBC Resolution 1 of 2006
			PSCBC Resolution 1 of 2008
			PSCBC Resolution 10 of 2008
			PSCBC Resolution 2 of 2012
			PSCBC Resolution 3 of 2012
			PSCBC Resolution 3 of 2015
			PSCBC Resolution 4 of 2015
			PSCBC Resolution 5 of 2015
			PSCBC Resolution 6 of 2015
			PSCBC Resolution 7 of 2015
			PSCBC Resolution 1 of 2017

Guidance Note	Forms and Precedents	Checklists	Other Resources
			PSCBC Resolution 1 of 2018
			PSCBC Resolution 2 of 2004
			Workshop implementation of PSCBC 2017 resolutions
			PSCBC schedule of benefits
			2015 SALGBC Salary and Wage Collective Agreement
244 Probation and training			Please link to this agreement which is already on the site.
245 Suspensions			PSCBC disciplinary procedure and code
246 Unfair disciplinary sanctions			Unfair labour practice information sheet
247 Failure to reinstate			Unfair labour practice information sheet
248 Procedure and remedies for unfair labour practices			
2.5 Protected disclosures			
251 Requirements for a protected disclosure			
252 Protection against occupational detriments			
253 Protected disclosures and unfair labour practices			
254 Protected disclosures and dismissals			
255 Remedies		Remedies	
2.6 Workplace discipline			
261 Workplace discipline generally			
262 Disciplinary Codes			PSCBC disciplinary procedure and code
			PSCBC Disciplinary Code and Procedure (Resolution 1 of 2003)
			Disciplinary regulations for SAPS

Guidance Note	Forms and Precedents	Checklists	Other Resources
			Disciplinary Code and Procedure for the Department of Correctional Services (GPSSBC Resolution 1 of 2006)
			Disciplinary code and procedure for the public service
263 Discipline prior to dismissal		Appropriate disciplinary sanction checklist	PSCBC disciplinary procedure and code
			PSCBC Disciplinary Code and Procedure information sheet
			Senior management service handbook
264 The appropriate sanction		Appropriate disciplinary sanction checklist	PSCBC disciplinary procedure and code
2.7 Dismissal and resignation			
271 The right not to be unfairly dismissed		Determining whether there was a dismissal	
		The difference between breach of contract and unfair dismissal	
272 Termination of employment			
273 Deemed dismissals			
274 Constructive dismissals			Constructive dismissal information sheet
			Grievance procedures for the public service
			PSCBC information sheet - grievance rules
			2015 SALGBC Main Collective Agreement
275 Dismissal and maternity leave			PSCBC Resolution 2 of 2015
276 Remedies and relief for dismissal and resignation			

3. DISMISSAL			
3.1 The right not to be unfairly dismissed			
311 A fundamental right			
312 Exclusions and interpretation			
313 Lawfulness, fairness and other essential concepts			

Guidance Note	Forms and Precedents	Checklists	Other Resources
3.2 Automatically unfair dismissal			
321 Automatically unfair reasons			
322 Trade union activity and the exercise of rights			
323 Participation in a protected strike			
324 The refusal by employees to accept a demand			
325 Pregnancy-related reasons			
326 Discrimination and dismissal			
327 Dismissals in the context of a transfer			
328 Dismissal and protected disclosures			
3.3 Dismissal for misconduct			
331 Workplace rules			PSCBC disciplinary procedure and code
			PSCBC Resolution 1 of 2003
			Considerations for drafting a disciplinary code
332 Substantive fairness			PSCBC resettlement costs information sheet
333 Disciplinary enquiries			SALGBC Disciplinary Code and Procedure Collective Agreement
334 Specific offences	Anti-corruption policy		Training on electronic communications and social media
	Social media policy		
	Information technology policy		
	Internet, electric communication and social media policy		
	Sexual harassment policy		
335 Aspects of evidence		A step-by-step guide on how to chair a public sector disciplinary enquiry	Evidence rules
			Forms of evidence
			Admissibility of evidence in a disciplinary enquiry

Guidance Note	Forms and Precedents	Checklists	Other Resources
			Drunkenness on duty information sheet
336 The decision to dismiss		A step-by-step guide on how to chair a public sector disciplinary enquiry	South African Professional Polygraph Association
337 The CCMA guidelines			
3.4 Dismissal for poor work performance			
341 A failure to meet a target			PSCBC Resolution 1 of 2013
342 Substantive requirements			PSCBC Resolution 10 of 1999
			PSCBC Resolution 12 of 1999
343 Guiding, mentoring and training			
344 Procedural fairness elements			Incapacity code and procedures in respect of poor performance
3.5 Dismissal for ill health			
351 Temporary or permanent ill health			PSCBC Resolution 12 of 1999
			PSCBC Resolution 10 of 1999
			PSCBC Resolution 8 of 2001
			Incapacity code and procedure in respect of ill-health
352 The employer's duty to accommodate			
353 Pre-dismissal procedure			PSCBC - Resolution 12 of 1999
			Incapacity code and procedure in respect of ill-health
3.6 Dismissal for operational requirements			
361 Valid and fair reasons			PSCBC Resolution 7 of 2002
			PSCBC Resolution 8 of 2002
362 The duty to consult			
363 Procedural overview			
364 Large-scale retrenchments	Section 189(3) notice of contemplating retrenchment		
	LRA 7.20 - Request for section 189A operational requirements facilitation		

Guidance Note	Forms and Precedents	Checklists	Other Resources
365 Remedies and relief			
3.7 Transfers			
371 Transfers within and between national and provincial government departments			PSCBC resettlement costs information sheet
			PSCBC Resolution 3 of 1999
			PSCBC Resolution 1 of 2014
372 Outsourcing			

4. COLLECTIVE BARGAINING

4.1 Trade unions and employers' organisations

Guidance Note	Forms and Precedents	Checklists	Other Resources
411 Registration and formal requirements	LRA 6.2 - Registration of an employers organisation	Freedom of Association	How to register a trade union
	LRA 6.1 - Registration as a Trade Union		PSCBC Resolution 8 of 1998
	LRA 6.4 - Certificate of registration of employers' organisation		
	LRA 6.3 - Certificate of registration of a trade union		
412 Statutory obligations	LRA 6.6 - List of members to be kept by the employers' organisation		PSCBC Resolution 8 of 1998
	LRA 6.5 - List of members to be kept by a trade union		
	LRA 6.7 - Number of trade union members		
	LRA 6.8 - Number of employers' organisation members		
413 Appointment of administrator and deregistration			
414 Recognition agreements	Recognition agreement template		

4.2 Freedom of association

Guidance Note	Forms and Precedents	Checklists	Other Resources
421 The fundamental right to associate		Organisational rights checklist	
		Advantages and disadvantages of centralised bargaining	
		Freedom of Association	

Guidance Note	Forms and Precedents	Checklists	Other Resources
422 Agency shops and closed shops			PSCBC Resolution 1 of 2011
			PSCBC Resolution 2 of 2010
			PSCBC Resolution 1 of 2005
4.3 Organisational rights			
431 Organisational rights generally		Organisational rights checklist	PSCBC Resolution 11 of 1998
			PSCBC Resolution 2 of 2017
432 Majority organisational rights explained			PSCBC Resolution 11 of 1998
			LRA's scheme of organisational rights
			GPSSBC Organisational Rights Resolution 1 of 2013
			2015 SALGBC Main Collective Agreement
			PSCBC Resolution 2 of 2017
			PSCBC Resolution 11 of 1998
433 Acquiring and terminating organisational rights			
4.4 Collective bargaining in the public sector			
441 The legal framework for collective bargaining and collective agreements	LRA 3.3 – Application for registration of a bargaining council	Scope of public sector bargaining councils	Collective agreements information sheet
			PSCBC Resolution 3 of 2000
			PSCBC Resolution 11 of 2002
			PSCBC Resolution 5 of 2003
			PSCBC Resolution 9 of 2003
			PSCBC Resolution 2 of 2005
			PSCBC Resolution 5 of 2008
			PSCBC Resolution 5 of 2010
			PSCBC Resolution 2 of 2013
			PSCBC Resolution 1 of 2016
			PSCBC Resolution 3 of 2007
			PSCBC Constitution
			GPSSBC Constitution

Guidance Note	Forms and Precedents	Checklists	Other Resources
			SSSBC Constitution
			PHSDSBC Constitution
			ELRC Constitution
			SALGBC Constitution
442 Disputes about collective agreements			
443 Terminating a collective agreement			

5. STRIKES

5.1 The right to strike and its limitations

511 The right to strike and recourse to lock-out			
512 The definition of a strike and a lock-out	Employer's demand for employees to do their normal contractual duties		
513 Substantive limitations			
514 Essential Services			

5.2 Procedural requirements

521 Referral to conciliation			PSCBC Constitution
522 The notice requirement	Notice of lock-out (in defence to a strike)		
	Notice to lock-out (offensive)		
	Notice to strike		

5.3 Strike handling

531 The strike plan	Strike diary form	What to include in a strike diary	
	Record of strike, lockout or protest action		
	Implementing a strike plan		
532 Gathering evidence			

5.4 Other aspects of strikes

541 Secondary strikes			
542 Picketing	LRA 4.1 – Request to establish picketing rules		
543 Protest action			
544 Dismissal of strikers	First ultimatum response to unlawful strike action		
	Second ultimatum response to unlawful strike action		

Guidance Note	Forms and Precedents	Checklists	Other Resources
	Notice to attend collective disciplinary enquiry		
545 Strike violence and union accountability			

6. EMPLOYMENT AND TRANSFORMATION STRATEGIES

6.1 Employment equity, skills development and BBBEE

611 A summary of the EEA			
612 Skills development		Finding and employing work-seekers for learnerships	Learnership allowances 2014
			Skills breakdown of staff
			Workplace skills plan
		Setting up a learnership	Sectoral Determination 5 - Learnerships

6.2 Unfair discrimination

621 Eliminating unfair discrimination			
622 Medical and psychological testing			Code of Good Practice on the Key Aspects of HIV and AIDS and employment
			Code of Good practice on the handling of sexual harassment cases
			Resolution 8 of 2001
623 Sexual harassment	Sexual harassment policy		
624 Equal conditions of employment for work of equal value			Process for evaluating jobs
625 Discrimination disputes and remedies			

6.3 Fair discrimination

631 Inherent requirements of the job			
632 Affirmative action measures	EEA 2 – Employment equity report		
	EEA 4 – Income differential statement		
	EEA 1 – Employment Equity Declaration by Worker		
	EEA 8 – Demographic data		

Guidance Note	Forms and Precedents	Checklists	Other Resources
	EEA 9 – Occupational levels		
	EEA 13 – Template for employment equity plan		
	EEA 3 – Summary of the Employment Equity Act 55 of 1998		
	EEA 6 – Compliance order		
	EEA 7 – Objection against a compliance order		
	EEA 11 – Application for an Employment equity report		
633 The test for fair affirmative action			

7. DISPUTE RESOLUTION

7.1 Introduction

711 Dispute resolution system			PSCBC Resolution 11 of 1999
			PSCBC Resolution 8 of 2008
			PSCBC Resolution 4 of 2009
712 Bargaining council rules			PSCBC Resolution 3 of 2001
			PSCBC Resolution 4 of 2005
			PSCBC Resolution 5 of 2005
			PSCBC Resolution 6 of 2010
713 Common jurisdictional issues and disputes			
714 The conciliation process			
715 The arbitration process	LRA 7.18 – Application to certify council award and writ of execution		Forms of evidence
716 Condonation applications			
717 Postponing proceedings			
718 Rescission and variation applications			

7.2 The Labour Court and its jurisdiction

721 Limited jurisdiction			Labour Court Manual 2013
			Labour Court Rules

Guidance Note	Forms and Precedents	Checklists	Other Resources
			Labour Appeal Court Rules
722 Concurrent jurisdiction			
723 Statutory and common law remedies			
724 Forum shopping		Breach of contract	
725 Legal Representation in the Labour Court			
726 Unfair dismissal disputes	Statement of Claim		Practice Manual 2013
	Statement of Response		
	Pre-trial minute		
7.3 Review applications			
731 The grounds for review	Notice of Motion for review proceedings		
	Supplementary Affidavit - review application		
	Founding Affidavit - review application		
732 The test for review	Index to pleadings		
733 Review of administrative decisions			
734 Review procedure			Practice Manual of the Labour Court
	Notice of Motion for review proceedings		
	Founding Affidavit		
	Supplementary Affidavit		
	Index to pleadings and index to bundle		
7.4 The Labour Appeal Court			
741 The Labour Appeal Court's status and jurisdiction	Application for condonation		
742 The Labour Appeal Court's powers	Application for rescission of ruling or arbitration award		
	LRA 7.13 - Request for arbitration		
7.5 After the Labour Appeal Court			
751 Supreme Court of Appeal			
752 The Constitutional Court			

Guidance Note	Forms and Precedents	Checklists	Other Resources
8. HEALTH, SAFETY, COMPENSATION AND UNEMPLOYMENT INSURANCE			
8.1 Workplace health & safety			
811 The Occupational Health and Safety Act: an introduction			
812 Obligations on employers and employees	W.Cl.4 - First Medical Report in Respect of an Accident	Checklist for Health and Safety	How to claim from the compensation fund in the case of an accident
	W.Cl.2 - Employers Report of an Accident		
	W.Cl.3 - Notice of Accident and Claim for Compensation		
	W.Cl.5 - Final or Progress Medical Report in Respect of an Accident		
	W.Cl.6 - Resumption Report		
813 Representatives and committees	Designation as health and safety representative		
	Designation as member of health and safety committee		
814 Regulations		Requirements for contents in First Aid Box	
		Generic checklist for HCS	
8.2 Compensation for occupational injuries and diseases			
821 The right to compensation	W. As.8 - Return of earnings		Compensation commissioner information sheet
			SAPS process of submitting IOD claims for service providers
822 Calculation of compensation and other procedures	W.CL.32 - Declaration by Guardian or Widow or Widower		Employee's role in reporting an injury
			Employer's role in reporting an employee's injury
823 Limits on compensation	W.CL.46 - Burial expense account		
8.3 Statutory unemployment insurance			
831 Summary of unemployment legislation	UI-8 - Application for Registration (Business)	Documents submitted with Forms	Form UIF Electronic Declaration Specifications

Guidance Note	Forms and Precedents	Checklists	Other Resources
	UI-8D – Application for Registration (Private Household)		
	UI-19 – Information to be supplied by Employer		
832 Unemployment benefits	UI-6A – Declaration to confirm unemployment status		
833 Illness benefits	UI-2.2 – Application for illness benefits		

Guidance Note	Forms and Precedents	Checklists	Other Resources
834 Maternity and adoption benefits	UI-2.3 – Application for maternity benefits		
	UI-2.4 – Application for adoption benefits		
835 Death benefits	UI-2.5 – Application for death benefits: surviving spouse		
	UI-2.6 – Application for death benefits: children		
	UI-2.8 – Proof of banking details		