

# SCHEDULE 8 OF THE LABOUR RELATIONS ACT (LRA): CODE OF GOOD PRACTICE ON DISMISSAL

## Key Guidelines for Dismissals

### Fair Reasons for Dismissal:

Must be based on misconduct, incapacity, or operational requirements. Automatic unfair dismissals (e.g., discrimination, protected strikes) are prohibited.

### Progressive Discipline:

Employers should use warnings, counselling, and training before disciplinary unless the misconduct is severe enough to justify termination.

### Protection & Performance Management:

Employers must give reasonable time for improvement and provide counselling and retrenching before dismissing for poor performance. Incompatibility is also recognised as a form of incapacity.

### Operational Requirements (Retrenchments):

Dismissals must result from valid economic or structural needs and follow a fair consultation process with objective selection criteria.

### Industrial Action & Unprotected Strikes:

Unprotected strikes are misconduct but don't always justify dismissal. Employers must issue ultimatums and allow time for compliance.

### Annexure A – Retrenchment Notice:

Standard template for severance pay, affected employees, and re-employment options.

## Pending 2025 Draft Code Amendments

### Consistency in Disciplinary Actions:

Minor inconsistencies don't automatically make a dismissal unfair.

### Flexibility in Disciplinary Processes:

Small businesses may use simplified procedures, like verbal warnings, instead of formal hearings.

### Extended Fair Retrenchment Considerations:

Employers must assess the harm caused, role importance, and employee acknowledgement before deciding on retrenchment.

### Fairness in Misconduct Dismissals:

The process should allow employees to respond and seek assistance without being overly formal.

### Recognition of Other Factors of Incapacity:

Factors like impairment require alternative considerations before dismissal.



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