



HARRY GWALA DEVELOPMENT AGENCY (PTY) LTD

[REG. No: 2011/001221/07]

POLICY: TERMINATION OF SERVICE

Administrative Responsibility:	Chief Executive Officer
Implementing Department / Departmental Unit	Corporate Services

TERMINATION POLICY

POLICY DOCUMENT CONTROL

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TABLE OF CONTENTS

PREAMBLE.....	4
1. LEGAL FRAMEWORK	4
2. PRINCIPLES.....	4
3. APPLICATION OF THIS POLICY.....	5
4. POLICY PROVISION AND PROCEDURE.....	5
4.1. DEATH.....	5
4.2. MEDICAL BOARDING/INCAPACITY ON GROUNDS OF ILL HEALTH.....	6
4.3. DISMISSAL/INCAPACITY ON GROUNDS OF POOR PERFORMANCE	6
4.4. UNSUCCESSFUL PROBATION /NON CONFIRMATION OF EMPLOYMENT AFTER PROBATION	6
4.5. RETRENCHMENT/TERMINATION OF SERVICES ON GROUNDS OF OPERATIONAL REQUIREMENTS	6
4.6. EXPIRY OF A CONTRACT OF EMPLOYMENT.....	7
4.7. SECTION 197 LRA TRANSFERS.....	7
4.8. VOLUNTARY RESIGNATION	7
4.9. ABSCONDMENT	8
5. PROVISIONS FOR MANAGING TERMINATION OF SERVICE.....	8
7. COMMENCEMENT OF POLICY	10

PREAMBLE

The purpose of this policy is to provide guidelines with regard to handling of all forms of termination by the Agency employees with an intention to ensure that the Agency as an organisation and its assets are protected against any form of loss or litigation once the employment relationship is terminated between the two parties.

To provide a framework for management of termination of employees' services within the Agency.

To ensure that a structured, standardized and correct approach and process are followed to ensure effective management and control of termination of service within Harry Gwala Development Agency.

To provide rules, regulations and procedures for transacting termination of services.

1. LEGAL FRAMEWORK

The policy was developed and guided by the following:

- 1.1. This policy is premised on the provisions and requirements of the Labour Relations Act("LRA") 66 of 1995 and the codes of good practice published in terms of the LRA.
- 1.2. This policy is also premised on the provisions and requirements of the BCEA-Basic Conditions of employment Act No, of 75 Of 1997.
- 1.3. This is further premised on the provisions and requirements of the Individual Contract of employment in so far as those terms and conditions of employment are not in contravention of the applicable labour laws of the Country.

2. PRINCIPLES

The following guiding principle should be observed in implementing this policy:

- 2.1. All terminations whether instituted by the employer or the employee shall be in writing.
- 2.2. Exit interviews shall be conducted in order to establish reasons for staff turnover so that the Harry Gwala Development Agency (PTY) LTD (HGDA) can use this information to develop a retention strategy and manage avoidable reasons for voluntary terminations.

3. APPLICATION OF THIS POLICY

- 3.1. This policy is applicable to all employees who are employed on a Permanent basis and Fixed Term Contract ("FTC") and those who report directly to the CEO.
- 3.2. This policy shall apply to non-permanent employees of the Agency.
- 3.3. This policy shall apply to experiential training personnel of the Agency.

4. POLICY PROVISION AND PROCEDURE

4.1. Death

- 4.1.1. Upon death of an employee, the CEO shall be notified by the family members or a staff member.
- 4.1.2. The Corporate Services Manager shall notify the Chief Executive Officer of the death of an employee of the Agency.
- 4.1.3. A certified copy of a Death certificate shall be forwarded to the Human Resources Division.
- 4.1.4. The Human Resources Division shall have a direct liaison with the representative of the family of the deceased employee.
- 4.1.5. The Human Resources Division must determine the rightful beneficiary/s either by checking the nomination forms in the employee's personal file or obtain a Letter of Authority from the Magistrate.
- 4.1.6. The Human Resources Division shall process all relevant claim forms in co-operation with the rightful beneficiaries.
- 4.1.7. The Human Resources Division shall institute payment/s in lieu of annual leave days and other payable emoluments in favour of the nominated beneficiary.
- 4.1.8. In the event that there is no agreement or consensus over the beneficiary for the receipt of the deceased estate from the Agency the family of the deceased must

approach the Court for a legal and a correct determination of the rightful beneficiary.

4.1.9. The fate of the deceased employee's estate pertaining to the pensions and other investments shall be dealt with in terms of the applicable laws of the country.

4.2. Medical Boarding/incapacity on grounds of ill health

4.2.1. The Medical Boarding and incapacity on grounds of ill health shall be dealt with terms of the provisions of Schedule 8, item 10 and 11 of the Labour Relations Act No 66 of 1995.

4.3. Dismissal/incapacity on grounds of poor performance

4.3.1. Dismissal/incapacity on grounds of poor performance shall be dealt with in terms of the provisions of Schedule 8, item 1,2,3,4,5,6,7 and 9 of the Labour Relations Act, No 66 of 1995.

4.3.2. Dismissal/incapacity on grounds of poor performance shall also be dealt with in terms of the Collective Agreement on the Disciplinary Code.

4.3.3. Dismissal/incapacity on grounds of poor performance shall also be dealt with in terms of the performance management policy of the Agency .

4.4. Unsuccessful probation /non confirmation of employment after probation

4.4.1. Unsuccessful probation/non confirmation of employment after probation shall be dealt with in terms of the provisions of Schedule 8, item 8 of the Labour Relations Act, No 66 of 1995.

4.4.2. Unsuccessful probation/non confirmation of employment after probation shall also be dealt with in terms of the Employment Policy of the Agency.

4.5. Termination of services on grounds of operational requirements

4.5.1. This shall further be dealt with in terms of the applicable regulations of the pension/ provident/ retirement fund.

4.5.2. This shall further be dealt with in terms of the applicable regulations of the pension/ provident/ retirement fund.

4.6. Expiry of a contract of employment

4.6.1. Expiry of a contract of employment shall be dealt with in terms of Chapter 5, Section 36;37;38;39 and 40 of the Basic Conditions of Employment Act, No 75 of 1997.

4.6.2. This shall also be dealt with in terms of the requirements and the provisions of the employment contract itself.

4.7. Section 197 LRA transfers

4.7.1. Section 197 LRA transfers shall be dealt with in terms of Section 197 of the Labour relations Act, No. 66 of 1995.

4.8. Voluntary Resignation

4.8.1. Voluntary Resignation shall be dealt with in terms of Chapter 5, Section 36; 37; 38;39;40 and 41 of the Basic Conditions of Employment Act No 75 of 1997

4.8.2. An employee will be required to serve a 30-day notice period preferably a calendar month as stipulated in the BCE Act or as stipulated in the fixed term contract.

4.8.3. An employee will not be allowed to take any annual leave during the notice period.

4.8.4. Any accumulated time off shall not be taken during the notice period.

4.8.5. By special arrangement the Agency and an employee may agree to a lesser notice period subject to agreed/non agreed upon penalties. The affected employee must submit the letter of resignation to his/her manager and within 12 hours the Manager must forward the letter to the CEO.

4.8.6. The CEO or his/her Designee will acknowledge and accept/decline the resignation on the advice of the Manager concerned and Human Resources Division within a period of seven calendar days.

4.8.7. The CEO shall not unreasonably decline the voluntary resignation of an employee.

- 4.8.8. The CEO shall decline the resignation provided there are implications of a constructive dismissal in the notice of resignation.
- 4.8.9. The acceptance of the resignation shall constitute the binding agreement between the Agency and the employee.
- 4.8.10. Should an employee whose notice of resignation has been declined fail to rectify his/her notice of resignation within seven calendar days after receipt of a notice of decline/refusal then the Agency will then accept his/her notice of resignation under protest.
- 4.8.11. The employee can withdraw his/her notice of resignation provided it has not yet been accepted or before the lapse of seven calendar days from the date of the notice whichever comes first.

4.9. Abscondment

- 4.9.1. An employee, who fails to report for duty without furnishing any reason for such absence within seven (7) consecutive working days, unless proven otherwise, shall be deemed to have absconded and as such be treated as if they have terminated their services with HGDA.
- 4.9.2. Should an employee abscond, the contract of service between HGDA and the employee shall be deemed to have terminated on the last day on which the employee worked after the due disciplinary procedures have been instituted. The employee shall have, as a result of this, subjected themselves to having to forfeit any claims of service benefits in terms of their conditions of employment except if determined otherwise by any legislation or recognised policy of HGDA.

PROVISIONS FOR MANAGING TERMINATION OF SERVICE

- 5.1. The Human Resources Division will facilitate; manage and control the signing of the Exit Clearance Form for all employees whose services have been terminated.
- 5.2. The staff exit clearance form shall not be completed unless the following requirements have been met:
- 5.3. All allocated office equipment and tools shall hand over before or on the last day of work.
- 5.4. All outstanding debts due to the Agency must be settled on or before the last day of office.
- 5.5. Repayment arrangements for huge debts must be entered into by and between the Agency and the employee before or on the last day of service.

5.6. Submission and acknowledgement of a written handover to the immediate superior of the employee subject to exemption of employees who may not be required to submit a written handover report by virtue of the post they occupy.

5.7. Successful serving of the notice period in case of any employee who has resigned.

Successful conduct of an exit interview in case of any employee who has resigned.

5.8. The Agency reserves the right to withhold any payment due to the employee until all requirements mentioned in Clauses No. 6.2.1 to 6.2.6 are met.

5.9. The normal emoluments of the employee whose services are due for termination will be paid on the payday of month namely:

5.10.1. Monthly salary

5.10.2. S&T claims where applicable

5.10.4. The above payment will be subject to statutory deduction.

5.11.1. Additional amounts due will be paid on the last day of the termination month subject to meeting all terms and conditions of termination of services namely:

5.11.1. Gratuity (bonuses,time off etc) (where applicable)

5.11.2. Accrued leave and time off due

5.11.3. Outstanding Performance Bonus

5.11.4. Outstanding pro rata

5.12.1. Whatever emoluments which have not been paid on the last of service due to whatever reason will be paid to the employee on the following month of business

5.13.1. The employee's services will be fully terminated from the payroll system on the month following her last month of service subject compliance with the applicable South African Tax Laws.

6. GENERAL PROVISIONS IN RESPECT OF THIRD PARTIES

6.1. The Human Resources Division will advise all third parties about the employee concerned termination of service through forwarding the employee concerned certificate of service.


6.2. The Human Resources Division will facilitate the completion of UI19 form where applicable.

6.3. The Human Resources Division will issue the employee with the Certificate of Service on the last working day irrespective of whether it has been requested.

7. COMMENCEMENT OF POLICY

7.1. This Policy will come into effect on the date of adoption by the Board of Directors of the Harry Gwala Development Agency (Pty) LTD.

APPROVED BY:

NAME	SIGNATURE	DESIGNATION	DATE
Mrs T.T. Thiyane-Magaqa		Acting Chief Executive Officer	22 May 2025