



FOR PSA MEMBERS: **MPUMALANGA, NORTH WEST, AND NORTHERN CAPE**

07-11-2025

## Awareness on section 17 of *Public Service Act*: Avoiding automatic termination of employment

The PSA continues to observe a growing number of cases where employees in the Public Service are deemed dismissed automatically in terms of section 17(3)(a) of the *Public Service Act, 1994 (as amended)*. This often occurs when employees absent themselves from duty without permission for a period exceeding one calendar month, or when they assume other employment whilst still holding a Public Service post. Many affected employees are not aware that such a dismissal occurs automatically by operation of law, without a disciplinary hearing, and that departments are legally bound to enforce it once statutory conditions are met. The PSA wishes to inform members about the implications of section 17, and to promote compliance and proactive communication to avoid preventable job losses.

### Purpose

The purpose of this *Informus* is to:

- Raise awareness about the provisions of section 17 of the *Public Service Act*.
- Educate employees on behaviours and situations that could result in termination of employment.
- Encourage responsible conduct and proper communication between employees and departments.
- Reduce cases of automatic dismissal that could have been avoided through awareness and early intervention.

### Key provisions of section 17 of *Public Service Act*

#### Authority to dismiss

Section 17(1) provides that the executive authority (such as a Minister, MEC, or Head of Department) has the power to dismiss employees in line with the *Labour Relations Act (LRA)*. This ensures that dismissals are conducted lawfully and fairly, following proper procedures in cases of incapacity, misconduct, or operational requirements.

#### Grounds for dismissal

In terms of section 17(2), employees may be dismissed for:

- Incapacity owing to ill health or injury;
- Operational requirements of the department (retrenchment/restructuring);
- Incapacity owing to poor work performance; or
- Misconduct, which includes violation of departmental rules, corruption, negligence, or other improper behaviour.

### **Automatic dismissal - Absence without permission**

Section 17(3)(a) is particularly critical. It states that: *An employee who absents himself/herself from official duties without permission for a period exceeding one calendar month shall be deemed to have been dismissed automatically on account of misconduct, with effect from the day after their last attendance at work.*

### **Key implications**

- No disciplinary hearing is required — dismissal occurs automatically by law.
- The department must record the termination once the absence period exceeds one month.
- If the employee takes another job during the absence, dismissal takes effect immediately, even before the month ends.

### **Possible reinstatement**

Section 17(3)(b) allows that, if an employee returns after such absence, the executive authority may consider reinstatement on good cause shown. However, this is discretionary, not automatic. Reinstatement may come with conditions such as treating the absence as leave without pay and is subject to evidence of genuine, exceptional circumstances (e.g., verified medical or personal emergencies).

### **Re-employment after dismissal**

Employees dismissed for misconduct or deemed dismissed under section 17(3) may only be re-employed:

- After the expiry of a prescribed period, which varies according to the nature of the misconduct.
- Certain categories of misconduct may permanently disqualify an employee from future employment in the Public Service.

## **Preventive measures and employee responsibilities**

To avoid falling foul of section 17:

- Always apply for leave in writing and obtain written approval before being absent.
- If you cannot report for duty owing to illness or personal emergencies, inform your supervisor immediately and provide proof (e.g., medical certificates or official correspondence).
- Maintain open communication with your HR office and line manager.
- Keep copies of all leave applications, approvals, and correspondence as evidence.
- Contact your PSA representative promptly for advice if facing difficulties that may affect attendance or performance.

## **PSA's commitment to members**

The PSA remains dedicated to:

- Protecting the rights of members under the *Labour Relations Act* and *Public Service Act*.
- Providing advice and representation in disciplinary or reinstatement processes.
- Engaging departments to ensure fair and lawful application of section 17.
- Conducting awareness campaigns and educational sessions to promote compliance and job security.

However, members are reminded that automatic dismissals under section 17(3) occur by operation of law, meaning these take effect immediately once legal conditions are met. Preventative awareness and proactive communication remain the best protection. Section 17 of the *Public Service Act* is a binding legal provision designed to maintain discipline and accountability in the Public Service. Unfortunately, lack of awareness often results in the avoidable loss of employment.

PSA members are therefore urged to familiarise themselves with the *Act*, act responsibly, and seek assistance early when facing attendance, health, or personal challenges. The PSA encourages a culture of compliance, professionalism, and mutual respect in all Public Service workplaces.

Reuben Maleka  
GENERAL MANAGER