



# WEEKLY LABOUR BULLETIN

**Commercial Farmers Union Bulletin #8**



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## DISCIPLINARY PROCEDURE IN THE AGRICULTURAL INDUSTRY IN ZIMBABWE

### INTRODUCTION

Workplace discipline is an important aspect of employment relations in Zimbabwe. Employers must ensure that cases of employee misconduct are handled fairly, consistently, and in accordance with the law because, without that, any punishment given will be invalid.

The law governing disciplinary procedures in the agricultural industry is primarily derived from the [Labour Act \[Chapter 28:01\]](#) and the Agriculture Industry Code of Conduct contained in [Statutory Instrument 41 of 2022](#).

Section 101 of the Labour Act requires employers to deal with misconduct through a registered code of conduct. In the agriculture industry, S.I. 41 of 2022 provides the applicable registered code of conduct to be used.

The Code aims to ensure fairness, uphold principles of natural justice, and promote stable labour relations within the agricultural sector.

### PURPOSE OF THE AGRICULTURE INDUSTRY CODE OF CONDUCT

The Code of Conduct serves several important purposes:

- To establish clear disciplinary rules in the agriculture sector
- To ensure disciplinary cases are handled fairly and transparently
- To protect the rights of both employers and employees
- To encourage corrective rather than purely punitive discipline
- To provide a uniform system for resolving workplace misconduct

The Code therefore promotes order and consistency in labour relations across farms and agricultural enterprises. Certain steps must be followed by the farmer to ensure fairness, order and consistency, and below are the steps to be followed.

## STEPS OF THE DISCIPLINARY PROCEDURE

### INVESTIGATION OF ALLEGED MISCONDUCT

The disciplinary process usually begins when an employer suspects that an employee has committed misconduct.

Before disciplinary action is taken, the employer must conduct an investigation, and this is mandatory. The investigation should be impartial and aimed at determining whether sufficient evidence exists to justify a disciplinary hearing.

During the investigation, the employee should be informed of the allegations, witnesses may be interviewed, relevant evidence should be collected, and the employee should be given the opportunity to explain their conduct.

The purpose of the investigation is not to determine guilt but to determine whether there is a case that should proceed to a disciplinary hearing.

### SUSPENSION PENDING INVESTIGATION

In certain circumstances, an employee may be suspended while investigations are taking place.

Suspension is generally used when the employee's presence may interfere with investigations, influence witnesses, disrupt workplace operations, or pose a safety risk.

Suspension should be communicated in writing and clearly state the reasons. It is generally regarded as a precautionary measure rather than a disciplinary penalty. Suspension may be with or without pay for not more than 14 working days. This must be lifted as soon as the employee is exonerated by the investigation, or where the offence is too trivial to warrant further disciplinary action.

### ESTABLISHMENT OF THE DISCIPLINARY COMMITTEE

If the investigation reveals reasonable grounds that there is a case of misconduct, a disciplinary hearing must be convened.

In terms of the Agriculture Industry Code of Conduct, the disciplinary committee generally consists of two (2) representatives appointed by the employer and two (2) representatives from the Workers' Committee. The employer must appoint a Chairperson of the Disciplinary Committee from the members of the Disciplinary Committee.

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The committee must act impartially and consider all evidence before reaching a decision.

Where a Workers' Committee does not exist or refuses to participate, alternative arrangements according to section 8 of the Code of Conduct may be made to ensure the disciplinary committee is properly constituted.

## **NOTICE OF DISCIPLINARY HEARING**

Before the hearing takes place, the employee must be given adequate notice of the disciplinary proceedings.

### **The notice should include:**

- The date, time and venue of the hearing
- The charges against the employee
- The evidence gathered during the investigation which supports the allegations or exonerates the accused
- The person to act as the complainant
- The employee's right to representation
- The right to call witnesses and present evidence

Adequate time must be given to allow the employee to prepare for their defence; that is, at least 3 days before the date of the disciplinary hearing.

## **CONDUCT OF THE DISCIPLINARY HEARING**

The disciplinary hearing must comply with the principles of natural justice. The allegations must be read to the employee, and a question must be put to the parties if there were any irregularities in the disciplinary procedure thus far, and if there are any, the Disciplinary Committee should address them before proceeding and attempt to resolve them.

After resolving any irregularities or if there are no irregularities, the disciplinary committee must carefully evaluate the evidence presented before it makes a decision, guided by section 5 (7) of the Code, ensuring that the employee has the right to:

- Appear before the disciplinary committee
- Be represented by a fellow employee, workers' committee member, union representative or legal practitioner
- Call witnesses
- Cross-examine witnesses presented by the employer
- Present mitigating factors before a penalty is imposed

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## DETERMINATION AND PENALTIES

After hearing the evidence, the disciplinary committee must determine whether the employee is guilty or not guilty.

If the employee is found guilty, the committee may impose an appropriate sanction such as a verbal warning, a written warning, a final written warning, or dismissal for serious misconduct

Dismissal is normally reserved for serious offences such as theft, gross negligence, or serious insubordination. The table below shows the categories of offences and the penalties for each category.

### TABLE OF PENALTIES

	1st Offence	2nd Offence	3rd Offence	4th Offence	5th Offence
<b>Category I - Minor Offences</b>	Verbal Warning	1st Written warning valid for 6 months	2nd written warning valid for 9 months	Final written warning valid for 12 months	Dismissal
<b>Category II - Moderate Offences</b>	1st Written warning valid for 6 months	2nd written warning valid for 9 months	Final written warning valid for 12 months	Dismissal	-
<b>Category III - Severe Offences</b>	Final written warning valid for 12 months	Dismissal	-	-	-
<b>Category IV - Extreme Offences</b>	Dismissal	-	-	-	-

*\*Appendix i of the Code carries the categories and definition of offences*

### RECORD KEEPING

A proper record of disciplinary proceedings must be kept. The record should include

- Charges against the employee
- Evidence presented
- Witness statements
- The committee's findings
- The penalty imposed

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Proper documentation is essential if the matter is later referred to a higher tribunal, such as the NEC, and even the Labour Court. It is important to note that the employee must also be given a written record of the disciplinary hearing.

## CONCLUSION

The disciplinary procedure in Zimbabwe's agricultural industry is governed by the Labour Act and the Agriculture Industry Code of Conduct contained in S.I. 41 of 2022. Employers who follow the proper procedure ensure that any disciplinary process carried out is fair and can stand in any tribunal, and they will not be accused of unfair labour practice, leading to any action taken becoming invalid.

While this bulletin tried to summarise as much as possible, the code of conduct provides in detail the steps that must be followed in the disciplinary process. Where one is not sure, it is better to consult than to embark on a journey into the wilderness of illegality.

***Disclaimer: This article is issued to serve as a general guide to farmers and does not substitute legal advice that may be required to address a particular situation with peculiar circumstances.***

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## Flow chart of the disciplinary procedure

