

# Chapter 11 Disciplinary measures, suspension and non-activity

## ARTICLE 11.1 DISCIPLINARY MEASURES

1. The employer can impose a disciplinary measure if the employee fails in his duties.
2. Failure to fulfil one's duties comprises both the violation of any instruction or an omission of what an employee in comparable circumstances should do or not do.
3. The disciplinary measures, as meant in paragraph 1, that can be imposed are:
  - a. A written reprimand;
  - b. A reduction of annual vacation-leave rights;
  - c. No increment increase;
  - d. Suspension;
  - e. Dismissal without notice;
  - f. Partial or full withholding of pay up to an amount of half a monthly salary;
  - g. A move down to a lower salary scale.

## ARTICLE 11.2 FREEDOM OF SPEECH

1. A disciplinary measure can only be imposed for a violation of article 125 a., first paragraph, of the Public Service Act after advice has been obtained by a committee appointed by the organization, as much as possible in collaboration with the other organizations.
2. In collaboration with the other organizations, the organization shall where possible determine rules concerning the composition and the working method of this committee.
3. The employer shall indicate with his decision to impose a disciplinary measure, as meant in the first paragraph, whether this was reached in conformity with the advice obtained.

## ARTICLE 11.3 SUSPENSION

An employee is suspended from his position by law, when, by virtue of legal measures or based on the Special Admittance to Psychiatric Hospitals Act (Stb. 2002, 431) he has been deprived of his freedom. An employee is not suspended from his position by law when the deprivation of freedom is the result of a measure taken in the interest of public health.

## ARTICLE 11.4 NON-ACTIVITY

1. Notwithstanding the rules concerning the imposition of a disciplinary measure, such as specified in article 11.1 of this chapter, the employer may suspend the employee:
  - a. If criminal proceedings have been instituted against him concerning a serious offence;
  - b. When the employer has informed him of an intended disciplinary measure to unconditionally dismiss him or has imposed this measure on him;
  - c. When, in the employer's opinion, the employer's interest so requires.
2. The decision leading to the suspension of the employee, specifies the start date and the circumstances which gave rise thereto.

## ARTICLE 11.5 REMUNERATION DURING SUSPENSION OR NON-ACTIVITY

1. During suspension or non-activity, one-third of the remuneration may be withheld. After 6 weeks another withholding, also for the full sum of the remuneration may take place. No withholding will take place if the employee has been placed on a non-active status or if:
  - a. The employer's interest so requires;
  - b. The employee is undergoing placement in a psychiatric institution or comparable institution;
  - c. The employee is in police custody -or inverzekeringstelling- as meant in article 57 of the Code of Criminal Procedure, provided that this is not followed by remand in custody.

2. The remuneration withheld may still be partially or fully paid to employee, if the suspension or non-activity is not followed by an unconditional dismissal by way of disciplinary measure or dismissal on grounds of an irrevocable prison sentence for a serious offence. The income that the employee has received since his suspension or during non-activity, from work he has been able to carry out, will be deducted from the remuneration unless this, in the employer's opinion, is unfair or unreasonable.
3. The non-deducted portion of the employee's remuneration may be paid to others.
4. If the employee has been suspended or placed on non-active status during illness, remuneration is then understood to be remuneration as defined by the ZAOI.

#### ARTICLE 11.6 FURTHER RULES

The employer can stipulate further rules for the execution of articles 11.1 through 11.5.