1. Overview

This Policy aims to establish the necessary guidelines to determine the extent of incapacity and to provide an appropriate and fair mechanism to address same.

2. Incapacity Leave

2.1 An employee’s absence is justified, when it is impossible for that employee to attend work for reasons outside his or her control, such as illness or accident. Nonetheless, where an employee is absent for an uninterrupted period of more than fifteen (15) days, or when his / her earning capacity is affected for health reasons, or when he / she is intermittently absent due to illness for a total of more than five (5) days in one quarter, or, at that employee’s request, the employer may submit the employee to the health board or other duly licensed body, to obtain a ruling on the employee’s capacity to work. An employee who has been declared either partially or totally incapacitated to work by the national medical board, and requires to be absent from work, may apply for temporary incapacity leave with full pay.

2.2 The application must be accompanied by a certificate of the national health board certifying the condition as temporary incapacity and indicating when the employee should return to work.

2.3 An employee must consent to disclose medical records and information to Grindrod and potentially undergo further medical examinations as may be required to finalise the evaluation of the application. Any and all medical and health information will be treated confidentially.

2.4 An employee must submit an application for temporary incapacity leave in respect of clinical procedures in advance, unless the treating medical practitioner certifies that such procedures were conducted as an emergency.

2.5 The employee must notify his / her relevant manager immediately. A verbal message to the relevant manager by a third party is only acceptable if the nature and / or extent of the incapacity prevents the employee from informing the relevant manager personally.

2.6 An employee must submit an application form for temporary incapacity leave within two (2) working days after the first (1st) day of absence. Failure to do so will result in the absent days being taken off annual leave and / or unpaid leave.

3. Poor Performance Incapacity

An employee may be considered incapacitated due to poor performance only through a formal investigation.

3.1 The investigation into incapacity must include a clear indication that the work performance of the employee concerned has decreased substantially to require incapacity counselling.

3.2 Management must engage and implement reasonable alternatives to improve performance of the said employee.
3.3 Unresponsiveness by the employee to such interventions may give rise to the conclusion that the employee is manifestly inept for his / her position, and necessitate investigating termination of services; refer to Grindrod’s Disciplinary Policy.

3.4 Guidelines for determining fairness of dismissal due to poor performance requires confirmation, evidence and justification relative to whether:

- There is a significant inability and or inconsistency to meet performance standards, and if the standards were not met
- The employee was aware or reasonably aware of such standards
- The employee was given a fair opportunity to meet the standards
- The employee was given the necessary vocational training
- The dismissal is the appropriate outcome for not meeting the standard.

4. Injury or Ill-Health Incapacity

4.1 The investigation into incapacity may include a medical or health practitioner’s consultation on the nature and extent of the incapacity.

4.2 Sick leave may be taken due to incapacity as per guidelines in Grindrod’s Leave Policy and the provisions of relevant labour legislation.

4.3 When considering alternatives to dismissal for the incapacitated employee, the manager must consider the nature of the job, period of absence, extent of the incapacity and the possibility of securing a temporary replacement.

4.4 The manager must explore alternatives, including but not limited to:

- Augmenting the work or role to accommodate the employee
- Availability of any suitable work alternatives to accommodate the disability
- Giving consideration to an employee injured on duty or incapacitated by work-related illness.

4.5 In the event of the severity of the incapacity limiting feasible alternatives and / or the lack of reasonable alternatives, Grindrod may consider investigating termination of services.

5. HIV / AIDS

Please see Grindrod’s HIV / AIDS Policy for further details.