

REMUNERATIVE WORK OUTSIDE EMPLOYMENT POLICY 2024/2025



public works & roads

Department:
Public Works and Roads
North West Provincial Government
REPUBLIC OF SOUTH AFRICA

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i. DEFINITIONS

In this Policy, unless the context indicates otherwise, any word shall have the meaning assigned to it in the Act and the Regulations.

"Applicant" refers to an employee who requests permission from the executive authority to perform other remunerative work;

"Business" includes any business, trade, occupation, profession, calling, industry, or undertaking of any kind, or any activity carried on for gain or profit by any person within the Republic or elsewhere, and includes all property derived from or used in or for the purpose of carrying on such other activity, and all the rights and liabilities arising from such other activity;

"Calendar month" means a period extending from a day in one month to a day preceding the day corresponding numerically to that day in the following month, both days inclusive;

"Code of Conduct" means the Code of Conduct contained in Part 1 of Chapter 2 of the Regulations;

"Conflict of interest" refers to a conflict between the public duties and private interests of an employee, in which the employee has private interests which could improperly influence him/her, and/or negatively impact on his/her disposable time to work, and/or negatively impact on his/her official obligations or official duties, and/or negatively impact on the public interest;

"days" means any days other than Saturdays, Sundays, or public holidays as defined in the Public Holidays Act, 1994 (Act 36 of 1994)

"Deemed approval" means the assumption that approval has been given by the executive authority once a specific time period has passed without the rejection of the application due to a lack of valid reason for not clearing the application within the time limit;

"delegated authority" means the functionary to whom the power is duly delegated or authorised in terms of section 42A of the Act;

"EA" means an executive authority as defined in Section 1 of the Act;

"Employee" means an employee in the public service;

"Ethics Officer" refers to the ethics officer designated by the executive authority as required in terms of regulation 23(1) of the Public Service Regulations, 2016;

"Minister" means the Minister for the Public Service and Administration;

"Other remunerative work" means any business carried out or services rendered for gain or personal benefit by an employee outside his or her employment in the relevant department, for which remuneration is received;

"Regulations" means the Public Service Regulations, 2016;

"Remuneration" means any payment or benefit in cash or kind, and **"remunerative"** has a corresponding meaning;

"the Act" means the Public Service Act, 1994;



"the Regulations" means the Public Service Regulations, 2016; and

"the Directive" means the Directive on Other Remunerative Work Outside an Employee's Employment in the Relevant Department as Contemplated in Terms of Section 30 of the Act.



1. INTRODUCTION

- 1.1 Public service employees (employees) are required to put the public good above private interests and to dedicate their time and energy to produce quality service for the benefit of the people of the country. When private interests and public interests clash, employees should prioritise public good over private interests. Section 195 of the Constitution of the Republic of South Africa, 1996 (Constitution), requires that employees should uphold the highest standards of ethics when performing their duties.
- 1.2 The Code of Conduct for the Public Service (Code of Conduct) requires employees to adhere to the Constitution and other laws of the Republic in the execution of their duties. The Code of Conduct further outlines standards that should govern the conduct of employees when performing their duties, including avoiding conflict of interest, not conducting business with any Organ of state, and not using or disclosing any official information for the personal gain of others.
- 1.3 Section 30 of the Public Service Act, 1994 (Act), requires that an employee should apply for permission to perform other remunerative work (ORW) outside his/her employment in the relevant department, before engaging himself/herself in such work. Such permission should be in writing. The employee who has written permission to perform ORW should not perform such work during working hours or use official equipment or state resources for such work.
- 1.4 Regulation 24 of the Public Service Regulations, 2016 (PSR), empowers the Minister to determine the process and form for the application of ORW. In compliance with this Regulation, in November 2016, the Minister issued a Directive on Other Remunerative Work outside an Employee's Employment in the Relevant Department as Contemplated in Terms of Section 30 of the Act. The Directive serves as an effective resource to employees applying for permission to undertake ORW and for the Ethics Officer and Executive Authority (EA) when processing such applications.

2. PURPOSE

To provide measures/guidelines to be utilized in considering applications to perform remunerative work outside an employee's employment with the department.

3. SCOPE OF APPLICATION

- 3.1 The provisions of this policy shall apply to all employees in the North West Department of Public Works and Roads employed in terms of the Public Service Act 1994
- 3.2 This Policy does not apply to:



- (i) persons appointed in terms of section 12A of the Act; and
- (ii) persons who provide specific services to departments but are not appointed in terms of section 9 of the Act.

4. PRINCIPLES REGARDING THE APPLICATION OF OTHER REMUNERATIVE WORK

- 4.1 Before undertaking other remunerative work, an employee must first obtain written permission from the executive authority or delegated authority in terms of applicable prescripts and this Directive.
- 4.2 Where possible, the employee should engage his/her immediate supervisor before initiating the application process.
- 4.3 The 30-day period as required in terms of Section 30 (3)(a) of the Act commences on the date the application form is received by the EA.
- 4.4 The permission to perform other remunerative work should not exceed a period of 12 calendar months.
- 4.5 If the employee wishes to continue performing other remunerative work after the approved period, a new application should be submitted 30 days before expiry.
- 4.6 The application shall be made using the application form determined by the Minister (Annexure A).
- 4.7 The confidentiality of applications should be maintained at all stages of the application process.
- 4.8 Permission to perform ORW is given only for the work specified in the application.

5. APPLICATION PROCESS

The process for the application of other remunerative work and approval is as follows:

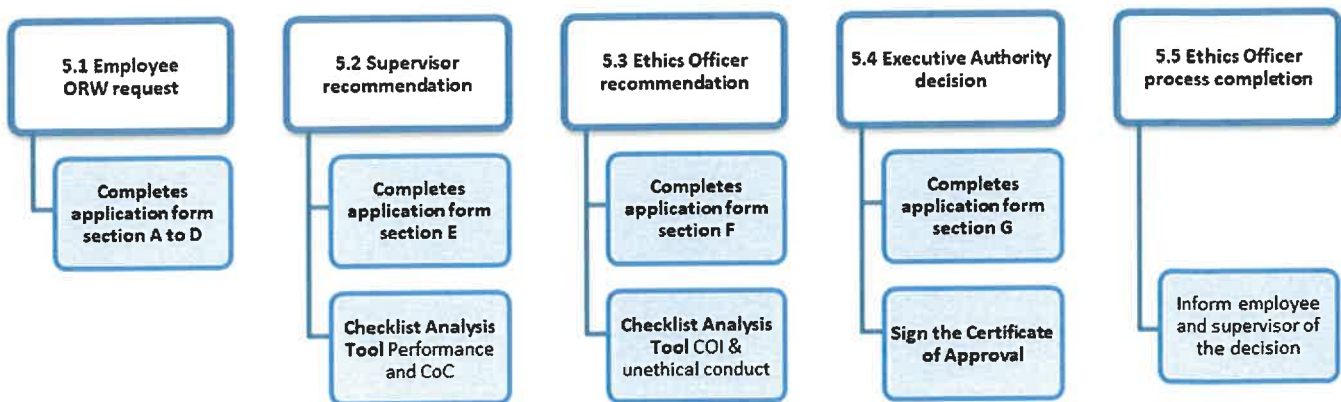


Figure 5.1 Schematic presentation of the approval process



A. PROCESSING OF APPLICATION

5.1 Employee ORW Request

- The employee completes sections A to D of the application form and submits such to his/her supervisor.

5.2 Supervisor Recommendation

- The applicant's immediate supervisor completes section E of the application form within 5 days of receipt.
- The supervisor assesses if the other remunerative work could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's functions or constitute a contravention of the Code of Conduct. The supervisor may also make inputs into whether the ORW poses a conflict of interest.
- The completion of the form will result in either a supervisor recommendation or no recommendation.

5.3 Ethics Officer Recommendation

- The ethics officer completes section F of the application form within 10 days of receipt.
- The ethics officer assesses the application to identify any conflict of interest or unethical conduct that may arise as a result of the employee undertaking ORW. The Ethics Officer may request all relevant information from the human resources component of the department relating to the performance of the Applicant.
- The completion of the form will result in either an ethics officer recommendation or no recommendation.

B. DECISION-MAKING

5.4 Executive Authority Decision

- The executive authority or delegated official completes section G of the application form within 30 days of receipt.
- Considering the supervisor and Ethics Officer's recommendations, the EA or delegated authority makes a final decision — either to grant permission or to decline the request.
- Upon granting permission for ORW, the EA is required to complete the certificate of approval.
- The EA or delegated authority, when making a decision, must at least take into account whether or not the other remunerative work:
 - (i) could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's functions; or
 - (ii) constitutes a contravention of the Code of Conduct.

- If permission is granted based on section 30 (3)(b) of the Act, the deemed permission remains valid for a period of 12 calendar months, and all provisions within this directive apply.
- The executive authority or delegated official may upon review of the approved request for other remunerative, whether deemed or otherwise, rescind the permission if reasonable grounds exist demonstrating a change in the status of the applicant from the time they first submitted their application, which may indicate conflict of interest.

C. FEEDBACK

5.5 Ethics Officer Process Completion

- When permission is granted by the EA or delegated authority, the Ethics Officer shall return a signed copy of the certificate of approval to the applicant and inform the supervisor of the outcome.
- Should the employee have the intention to continue with the other remunerative after the approved period, they must submit a new application 60 days before the expiry of the existing approval.

6. RECORD KEEPING

- 6.1 The Ethics Officer must keep a register of employees who requested permission to perform other remunerative work.
- 6.2 All employees who have been granted approval to perform other remunerative work must disclose this in the submission of their financial interest disclosures should they be designated to submit in terms of the Regulations.
- 6.3 Copies of the applications must be filed for record keeping by the Ethics Officer and the supervisor, and the employee.

7. NEW APPOINTMENTS AND TRANSFERS

- 7.1 Applications must be reviewed should the employee be transferred or reassigned within a department.
- 7.2 Employees who are transferred or reassigned within a department should inform the Ethics Officer within 5 days after accepting a transfer/reassignment.
- 7.3 The Ethics Officer assesses the impact of the change for possible, perceived, or potential conflict of interest and determines the likelihood of the other remunerative work to interfere or impede the effective or efficient performance of the employee's functions or if it constitutes a contravention of the Code of Conduct.
- 7.4 The Ethics Officer submits his/her assessment to the EA or delegated authority within 5 days after being informed. The EA or delegated authority then has **15 days** to review his/her decision.



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- 7.5 New employees who are transferred from another department must submit, within 30 days after accepting a transfer a new application from the EA or delegated official if they intend to continue with other remunerative work.
- 7.6 During the recruitment process, candidates must be informed of the requirements of this policy to ensure they comply before appointment.

8. NON-COMPLIANCE


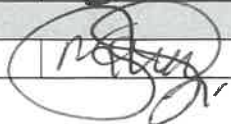
- 8.1 The Ethics Officer must periodically monitor employees who have permission to perform ORW to guard against ORW interfering or impeding the effective or efficient performance of the employee's functions in the department or for possible contravention of the Code of Conduct (which includes amongst others a prohibition on employees conducting business with any organ of the state).
- 8.2 All cases of non-compliance must be dealt with in terms of sections 16 A and 16 B of the Act, as well as section 31 of the Act. The outcome must be captured on PERSAL and, where applicable, the amount to be repaid/deducted indicated.
- 8.3 In line with section 5(7) of the Act, any decision made by the EA or his/her delegated authority shall be corrected if that decision was based on an error of fact, law, or fraud. This includes, amongst others: where applicants omitted facts that may have influenced the decision to grant permission: and/or where the applicant misrepresented the facts about his/her involvement in ORW.

9. POLICY REVIEW

The policy shall be reviewed annually or as and when a need arises to take into account new developments and changes affecting stakeholders.

10. RECOMMENDATION AND APPROVAL

This Policy is recommended by the Risk Management Committee and approved by the Head of Department.

DESIGNATION	NAME	SIGNATURE	DATE
RECOMMENDATION			
Risk Management Committee Chairperson	Mr. F. M. Mkhabela		27/03/2024
APPROVAL			
Head Of Department	Mr. M.I. Kgantsi		28/03/24

