RE Munerative Work Outside Public Service and Declaration or Disclosure of Conflict of Interest Policy

2013
Remunerative Work Outside Public Service and declaration or disclosure of conflict of interest policy

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1. ACRONYMS

RWOPS: Remunerative work outside Public Service

HOD: Head of Department

MEC: Member of Executive Council

HRM: Human Resource Management

PAJA: Promotion of Administrative Justice Act

PSCBC: Public Service Coordinating Bargaining Council

PSR: Public Service Regulations

BCEA: Basic Conditions of Employment Act

2. INTRODUCTION

Recognizing the need to comply with Legislations that regulate performance of remunerative work outside employment, effective and efficient management of employees undertaking such work and the usage of office equipment by employees engaged in such activities, the Department of Economic Development, Environment and Tourism thus deemed it necessary to develop a policy to provide guidelines in obtaining permission prior commencement of the actual work for employees who wish to engage in such remunerative work.

Section 30 of the Public Service Act, 1994 as amended read in conjunction with Paragraph C.5.5 of Explanatory Manual on the Code of Conduct for the Public Service provides that an employee shall, not without approval, perform
remunerative work outside his or her official duties or use office equipment for such work.

3. PURPOSE OF THE POLICY

3.1 The purpose of this policy shall be as follows:

3.1.1 To provide measures or guidelines to be used in regulating and considering requests by employees to engage themselves in remunerative work outside the Department;

3.1.2 To provide guidance on how remunerative work outside employment should be managed;

3.1.3 To ensure that there is compliance with regard to legislations governing RWOPS; and

3.1.4 To ensure that there is proper management of employees’ conduct and activities performed in relation to their work outside employment.

4. AUTHORITY OF THE POLICY

The policy is issued under the authority of the MEC as the Executive Authority and the Head of Department as the Accounting Officer for LEDET.

5. LEGAL FRAMEWORK

This policy is guided by the following legal prescripts:

5.1 The Constitution of the RSA, 1996.
5.2 Public Service Act, 1994, as amended.
5.3 Public Service Regulations, 2002 as amended.
5.4 PSCBC Resolution No. 1 of 2003: Disciplinary Code and Procedure for the Public Service.
5.6 Public Finance Management Act, 1999.
5.7 Treasury Regulations, 2001 as amended.
5.8 Labour Relations Act, 1995 as amended.
5.9 Promotion of Administrative Justice Act (PAJA), 2000.

6. SCOPE OF APPLICATION

This policy is applicable to all employees of the Department of Economic Development, Environment and Tourism, Limpopo Province.

7. DEFINITIONS

"Conflict of interest" means a conflict between the private interests and official responsibilities of a person in a position of trust;

"Employer" means the Department of Economic Development, Environment and Tourism, Limpopo Province;

"Employees" mean Individuals appointed in terms of the Public Service Act, 1994 as amended within the Department of Economic Development, Environment and Tourism, Limpopo Province;

"Executive Authority" means Member of Executive Council of the Department of Economic Development, Environment and Tourism;

"Normal working hours" mean prescribed hours in terms of BCEA that an employee shall be executing his or her normal official duties; and
“Overtime” means officially granted time that an employee work in excess of the prescribed normal working hours.

8. POLICY PRONOUNCEMENTS

8.1 The policy shall be implemented based on the following conditions for performing of RWOPS:

8.1.1 The prescribed form, hereto attached and marked Annexure A, must be completed in respect of all requests for RWOPS, this form must also be completed by employees who have registered companies or close corporations or whose intention is to work for the company or corporations.

8.1.2 An employee shall not engage himself or herself in any transaction or action that is in conflict with his or her official duties, thus the employee shall refrain from any official action or decision making process, which may result in improper gain or give rise to a conflict of interest.

8.1.3 An employee who wishes to undertake RWOPS must apply for approval from the Executive Authority not later than 30 April each year, such approval shall be granted within 30 days after the receipt of the request.

8.1.4 Any person who joins the Department after April shall disclose such information in writing within 30 days after his or her assumption of duty.

8.1.5 An employee who applies for permission to perform RWOPS shall disclose any conflict of interest that is likely to occur between himself or herself and the Department.

8.1.6 The supervisor and the overseer of an applicant shall make comments on the application to ensure compliance on applicable requirements before the HOD recommends, approval shall be granted by the Executive Authority if the applicant complies with the requirements.

8.1.7 In the event of a conflict of interest, or if deemed necessary, the Executive
Authority may withdraw the approval granted to perform RWOPS from the employee.

8.1.8 RWOPS performed must in no way interfere or impede the effective or efficient performance of functions in the unit of the employee, who has been granted approval to perform RWOPS.

8.1.9 RWOPS must be performed outside the employee’s normal working hours or any period of overtime granted to him or her within the Public Service.

8.1.10 The nature of work to be performed by the employee outside his or her employment should be clearly outlined and the total remunerative hours to be performed must not exceed 8 hours per week, such hours should be counted after knock off time.

8.1.11 If the employee is no longer performing RWOPS, a written notice accompanied by resignation or deregistration letter from institutions authorized to register businesses must be given to the Department.

8.2. DECLARATION AND OR DISCLOSURE AND CONFLICT OF INTERESTS

8.2.1 Interests to be disclosed in terms of this policy shall be in line with the gift policy and include, but not limited to the following:
- Gifts and hospitality from a source other than a family member.
- Interests in property or land, whether inside or outside South Africa.
- Shares, directorship or partnership in a company ;and
- Sponsorship.

9. DEFAULT

An employee who fails to comply with the provisions of this policy will be dealt with in terms of the Public Service Disciplinary Code and Procedure as amended.
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10. INCEPTION DATE

The inception date of this policy is thirty (30) days after approval by the Head of Department.

11. REVIEW

This policy shall be reviewed every twenty four (24) months.

12. TERMINATION

This policy shall remain in force until and unless it has been withdrawn and/or amended.

13. ENQUIRIES

Enquiries regarding the policy shall be directed to the Senior Manager: HRM.

APPROVAL

Approved by:

[Signature]

HEAD OF DEPARTMENT: LEDET

DATE: 16/09/2013
ANNEXURE A

APPLICATION FORM TO PERFORM REMUNERATIVE WORK OUTSIDE THE PUBLIC SERVICE

I hereby wish to apply for Permission to perform remunerative work outside the Public Service in terms of Section 30 of the Public Service Act, 1994 as amended, read in conjunction with Chapter 2. C5.5 of the Public Service Regulations, 2001 as amended.

A. PERSONAL PARTICULARS

1.1 Surname and initials: .................................................................

1.2 Rank: ..................................................................................

1.3 Persal number: .................................................................

1.4 Identity number: ..............................................................

1.5 Directorate: ........................................................................

B. DETAILS OF THE APPLICATION

1. Name of the business(es):

........................................................................................................

........................................................................................................
2. Briefly describe nature and scope of remunerative work to be performed:

3. Indicate your involvement and expected hours to be performed per week:

4. Specify the time when remunerative work will be performed:

5. The duration of the service for which approval is sought shall be limited to that financial year, where after, further approval should be obtained.

6. Please describe the job you are currently performing or attach your latest signed job description:
C. UNDERTAKING:

I .................................................., the undersigned hereby certify that the above given information is true and correct. I am fully aware and accept the Provisions outlined in sections 30 and 31 of the Public Service Act, 1994 read concurrently with Code of Conduct for the Public Service that:

- I shall place the whole of my time at the disposal of my department or state;
- I shall not perform or engage myself in remunerative work outside Public Service without approval being granted to me by the Executive Authority;
- Shall I receive any unauthorized remuneration, allowance, reward or gift, the state has the right to recover that by means of legal proceedings or such other manner as the Provincial Treasury may approve and be paid into state revenue.
- I shall not perform remunerative work outside Public Service during official hours;
- I shall not allow such work to interfere with my duties and commitments in the working environment;
- I shall not commit any act or undertake any work that may bring the Department into disrepute;
- I shall not accept any tender, contract or business or use the name of any firm, company or business enterprise to receive business from any organ
of the state without prior disclosure and seeking approval of my interest in such business;

- I shall not attempt to or influence the Departmental and Public Service tender awarding processes;

- I shall not under no circumstances utilize the Departmental resources or infrastructure in promoting such remunerative work (e.g. telephone, computer, photocopier machine, faxes, stationery, office equipment, vehicles);

- I accept that approval to perform remunerative work may be withdrawn by the Executive Authority or any delegated official upon good cause shown in conformity with just and fair administrative action;

- I accept that after expiry of the period stated in the approval letter, I must re-apply in writing by completinga new RWOPS application form;

- In the event I deviate from the above mentioned undertaking, disciplinary proceedings will be instituted against me.

________________________________________________________________________

SIGNATURE OF APPLICANT

DATE

Supported/not supported/supported with amendments

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

(If not supported, please indicate reasons)

________________________________________________________________________
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SIGNATURE OF SUPERVISOR

DATE

Comments by relevant overseer

(If not supported, please indicate reasons)

SIGNATURE OF OVERSEER

DATE

Recommended / Not recommended
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..............................................................

..............................................................

SIGNATURE OF HEAD OF DEPARTMENT

DATE

Approved / Not approved

..............................................................

..............................................................

..............................................................

SIGNATURE OF MEC

DATE