Code of Conduct, Public Service Regulations, 2016
Introduction
PSR Chapter 2 Part 1 deals with the Code of Conduct.

Although it addresses a number of issues, the following are highlighted:

- Gifts
- Conflicts of Interest
- Other Remunerative Work
- Doing business with an organ of state
- Reporting obligation
- New additions (drinking and misrepresentation)
Gifts

Regulation 13 (a) and (h)
Gifts

• Regulation 13 (a) - Ethical conduct: An employee shall—

• not receive, solicit or accept any gratification, as defined in section 1 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), from any employee or any person in return for performing or not performing his or her official duties;

• PRECCA definition includes: Money, donation, gift, loan, avoidance of a loss, status, employment, payment of a loan, etc.
Gifts

• Regulation 13 (h) - Ethical conduct: An employee shall—
  • not receive or accept any gift from any person in the course and scope of his or her employment, (other than from a family member), to the cumulative value of R350 per year, unless prior approval is obtained from the relevant executive authority;
    • Can still receive to the cumulative value of R350 per year;
    • not necessarily from the same person;
    • If more than R350 obtain permission from EA.
Conflicts of Interest

Regulation 11 (b)
Regulation 12 (f)
Regulation 13 (b), (d) and (f)
Conflicts of Interest

• Regulation 11(b) - An employee shall—

• put the public interest first in the execution of his or her official duties;
Conflicts of Interest

• Regulation 11(f) - An employee shall—

• not abuse his or her position in the public service to promote or prejudice the interest of any political party of interest group;
Conflicts of Interest

• Regulation 13(b) - Ethical conduct: An employee shall—
• Not engage in any transaction or action that is in conflict with or infringes on the execution of his or her official duties;
Conflicts of Interest

• Regulation 13(d) - Ethical conduct: An employee shall—
• recuse herself or himself from any official action or decision-making process which may result in improper personal gain, and this shall immediately be properly declared by the employee;
Conflicts of Interest

• Regulation 13 (f) - Ethical conduct: An employee shall—
• refrain from favouring relatives and friends in work-related activities and not abuse his or her authority or influence another employee, nor be influenced to abuse his or her authority;
Other Remunerative Work

Public Service Act, Section 30
Regulation 13 (i)
Regulation 24
Other Remunerative Work

• Section 30 of the Public Service Act provides as follows:
  • Subsection (1): No employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department.
Other Remunerative Work

• Section 30 of the Public Service Act provides as follows:
  • Subsection (2): For the purposes of subsection (1) the executive authority shall at least take into account whether or not the outside work could reasonably be expected to interfere with or impede the effective or efficient performance of the employee’s functions in the department or constitute a contravention of the Code of Conduct, contemplated in section 41 (1) (b) (v) of the Act.
Other Remunerative Work

- Regulation 13(i) - Ethical conduct: An employee shall—
- if he or she has permission in terms of section 30 of the Act to perform outside remunerative work, not—
- (i) perform such work during official work hours; and
- (ii) use official equipment or state resources for such work.
Other Remunerative Work

• Regulation 24 - Other remunerative work by employees.
• An application by an employee to perform remunerative work outside his or her department shall be in accordance with the process determined by the Minister and in the form issued by the Minister.
• The DPSA issued the Directive on Other Remunerative Work Outside the Employee’s Employment in the Relevant Department as Contemplated in Section 30 of the Public Service Act, 1994 on 16 September 2016, and it will be effective from 1 November 2016.
Other Remunerative Work: Directive: Process
Other Remunerative Work: Directive: Process

• **Application:** Employee completes form, submits to Ethics Officer (EO). 30 days starts.

• **Processing:** EO submits within 3 days to the supervisor. Supervisor recommends, returns within 5 days back to EO. EO analyses and identifies conflicts of interest. Also obtains info from HR. EO then recommends and within 7 days submits to Executive Authority (EA). EO ensures confidentiality and 30 days deadline.
Other Remunerative Work: Directive: Process

- **Decision making:** EA grants permission, takes into account section 30 of the Act, pens signature on form and certificate (within 15 days). When not approved, EA indicates such in writing. Approval for 12 months (including deemed approval).

- **Feedback:** Signed copy and certificate is returned to applicant. When not approved, EA must provide written reasons, notifies the applicant within 30 days.
Other Remunerative Work: Directive: Process

- **Record keeping**: All steps in the process are recorded on PERSAL system. Applicants attach certificate when disclosing financial interests. Copy of application form is filed.

- **Other Provisions**: Permission to perform other remunerative work terminates with transfers and internal reassignments. During recruitment process, new recruits need to be informed that they have to apply for performing other remunerative work.
Other Remunerative Work: Transitional Measures

• Within 6 months (by 30 April 2017) from the Directive taking effect (which is 1 November 2016), all current approvals will terminate.

• Employees wishing to continue with other remunerative work after 30 April 2017, should submit a new application at latest 1 April 2017 (as it takes 30 days for approval). This also applies to deemed approvals.

• Requests that includes performing business with an organ of state will not be considered.
Doing Business with an Organ of State

Regulation 13 (c)
Circular EIM 1/2016 and EIM 2/2016
Public Service Regulations Annexure 1
Business with an organ of state

• Regulation 13 (c) - Ethical conduct: An employee shall— not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such employee is in an official capacity a director of a company listed in schedule 2 and 3 of the Public Finance Management Act.
Business with an organ of state

• Circular EIM 1/2016, Doing business with an organ of state - August 2016 disclose, end of January 2017 decide to resign or to withdraw, then submit proof in February 2017.
Business with an organ of state

Transitional arrangements: Annexure 1 (2) of the PSR, 2016: An employee, shall—

• (a) at the end of August 2016, disclose that the employee is conducting business with an organ of state or is a director of a company that conducts business with the organ of state;
Business with an organ of state

• Circular EIM 2/2016, Report the disclosures to DPSA end of September 2016.
Business with an organ of state

Transitional arrangements: Annexure 1 (2) of the PSR, 2016: An employee, shall—

• (b) within six months (end of January 2017)-
• (i) cease conducting business with the organ of the state or resign as an employee;
• (ii) resign as a director of a company that conducts business with an organ of state or resign as an employee;
Business with an organ of state

• (b) if the employee does not resign within the six month period, the employee must submit proof that the employee has ceased conducting business or has resigned as a director of a company that conducts business with an organ of the state within a month (February 2017) of doing so.”
Reporting Obligation

Regulation 13 (e)
Regulation 14 (q)
Reporting obligation

• Regulation 13 (e) - Ethical conduct: An employee shall—

• immediately report to the relevant authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes a contravention of any law (including, but not limited to, a criminal offence) or which is prejudicial to the interest of the public, which comes to his or her attention during the course of his or her employment in the public service;
Reporting obligation

• Regulation 14 (q) - Ethical conduct: An employee shall—
• immediately report any non-compliance of the Act to the head of department.
New Additions

Regulation 14 (o) and (p)
New additions

• Regulation 14 - New:

• (o) Not consume alcoholic beverages or any other non-medical substance with an intoxicating effect while on duty, nor report for duty under such influence;

• (p) Not misrepresent himself or herself or use the name or position of any other employee or person to unduly or improperly influence any decision making process or obtain any undue benefit.
Dankie / Thank you / Ngiyathokoza
Enkosi / Ngiyabonga / Ke a leboga
Ke a leboha / Ndi a livhuwa
Ndza khensa