

PUBLIC SERVICE EMPLOYEES AS CANDIDATES FOR ELECTIONS AND PERFORMING OTHER REMUNERATIVE WORK FOR THE IEC

PRESENTATION DURING THE PUBLIC SERVICE MONTH BY Moses Kutu

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INTRODUCTION

- ✓ The year 2021 is the year of Local Government elections;
- ✓ The elections are expected to take place between **27 October and 01 November 2021**;
- ✓ The Independent Electoral Commission (IEC) often make use of assistance from public service employees as voting or counting officers; and
- ✓ Some public service employees might want to explore careers in politics.



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PURPOSE OF THE PRESENTATION

To provide advise to employees who want to:

- ✓ register as candidates for the 2021 Local Government elections; and
- ✓ perform other remunerative work by assisting the IEC as voting staff during the elections.
- ✓ The **objective** is to ensure that these employees do not contravene the Public Service Code of Conduct (Part 1, chapter 2, of the PSR, 2016).



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OUTLINE OF THE PRESENTATION

- ✓ **Four issues** will be explored in the context of elections as follows:
 - (i) Employees as candidates for elections (Section 36 of the PSA, 1994 and regulation 15 of the PSR, 2016);
 - (ii) Party political activities at work (Regulation 13(k));
 - (ii) Conducting business with an organ of the state (Regulation 13(c)); and
 - (iii) Performance of remunerative work outside the relevant department (Regulation 13(i)).



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DEFINITION OF AN EMPLOYEE (SEC 8 OF THE PSA, 1994)

8. (1) The public service shall consist of persons who are employed—

(a) in posts on the establishment of departments; and

(b) additional to the establishment of departments.

(2) Subject to the prescribed conditions, any person referred to in subsection (1) may be employed **permanently or temporarily and in a full-time or part-time capacity.**

➤ **Excludes** people appointed in terms of **section 12** of the PSA.



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EMPLOYEES AS CANDIDATES FOR ELECTIONS

- ✓ **Section 36(1)** of the Public Service Act, 1994, employees to participate as candidates for elections,
- ✓ **subject to the code of conduct and any other prescribed limits and conditions.**
- ✓ **Regulation 13(k)** requires that an employee should refrain from **party political activities** in the workplace.



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EMPLOYEES AS CANDIDATES FOR ELECTIONS CONT.

Regulation 15 of the Public Service Regulations, 2016

An employee who is standing as a candidate for election: -

- inform the Head of Department **in writing, the next working day** after the IEC issues him/her with a candidacy certificate;
- submit the leave form and a copy of the certificate to the HOD on the same day (following departmental processes);
- will be on leave until a day after elections; and
- if the employee does not have sufficient annual leave days, he/she will take **unpaid leave** for the period in question.



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EMPLOYEES AS CANDIDATES FOR ELECTIONS CONT.

Based on the outcomes of the elections:

- **Elected and accepts election:** resign from the public service immediately before the date he or she assumes office;
- **Elected, but declines election:** leave lapse on the date that the employee declines election (go back to work a day after an employee declines the election);
- **Not elected:** leave lapse on the date after the election (go back to work a day after the election); and



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PERFORMANCE OF OTHER REMUNERATIVE WORK OUTSIDE ...

Section 30 of the Public Service Act:

- ✓ an employee should have **written permission from the Executive Authority (EA) before** performing ORW; and
- ✓ the EA has **30 working days** to consider the application.

Considerations:

- ✓ Impact of outside work in the employee's performance of his/her responsibilities in the department; and
- ✓ Possible contravention of the Code of Conduct.



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PERFORMANCE OF OTHER REMUNERATIVE WORK OUTSIDE ...

- ✓ An employee who has intention to assist the IEC during the 2021 Local Government elections should apply by following the prescribed guideline available in our Directive.
- ✓ Assisting the IEC **during elections** is **NOT** considered as conducting business with an organ of the state (**Annexure A of the Directive on conducting business with an organ of the state**).



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PERFORMANCE OF OTHER REMUNERATIVE WORK

Regulation 13(i):

- ✓ An employee who has permission to perform other remunerative work, cannot:
 - (i) perform such work during official working hours; or
 - (ii) use official equipment or state resources for such work.
- ✓ An employee **should therefore, take leave** for all the days that he/she requires to assist the IEC.



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CONDUCTING BUSINESS WITH THE STATE

- ✓ **Regulation 13(c)** prohibits an employee from conducting business with an organ of the state.
- ✓ After elections, an employee will not be permitted to perform ORW with the IEC.
- ✓ Employees in the public service can no longer work as part-time councilors as this will **contravene regulation 13(c)**.



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CONCLUSION

- ✓ While employees have the right to participate as candidates for elections, they cannot contravene the code of conduct.
- ✓ Performance of ORW is not a right, so application should be made on time to allow the EA to apply his/her mind.
- ✓ After elections employees cannot engage in ORW that involves the IEC as this will constitute conducting business with an organ of the state.



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