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Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

GUIDE ON MANAGING OTHER REMUNERATIVE WORK IN THE PUBLIC SERVICE

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1. INTRODUCTION

The Guide on Managing Other Remunerative Work in the Public Service (2024) provides employees with guidance on the process of obtaining permission to engage in paid work outside their primary public service employment.

This Guide is rooted in the *Directive on Other Remunerative Work Outside the Employee's Employment in the Relevant Department (2024)* (Directive). It underscores the importance of managing Other Remunerative Work (ORW) to prevent conflicts of interest and safeguard the effective performance of public duties. It outlines the responsibilities of both employees and departments, emphasizing the need for transparency, compliance, and alignment with ethical standards to maintain public service integrity. This Guide should be read in conjunction with the ORW Directive.

2. PURPOSE

The purpose of this Guide is to provide a practical reference for employees and departments to manage ORW in alignment with the *Directive on Other Remunerative Work Outside the Employee's Employment in the Relevant Department (2024)*.

It explains the legal framework, clarifies key concepts, and outlines the responsibilities of all parties involved. The Guide also provides step-by-step instructions for submitting, assessing, and approving ORW applications, along with clear timeframes for each stage of the process.

3. LEGISLATIVE FRAMEWORK

This Guide is underpinned by the following legal prescripts that govern the management of ORW within the public service:

3.1 Constitution of the Republic of South Africa, 1996

Section 195(1)(a): Mandates a high standard of professional ethics in the public administration.

3.2 Public Service Act, 1994

- **Section 30:** Requires written permission from the Executive Authority (EA) for any remunerative work outside an employee's primary employment. The EA must ensure that such work does not interfere with official duties or create conflicts of interest.
- **Section 31:** Governs the handling of any remuneration received without proper authorization, including the recovery of funds.

3.3 Public Administration Management Act, 2014

Section 8: Prohibits employees from conducting business with the State or holding directorships in companies that do so, with violations considered criminal offenses and/or serious misconduct.

3.4 Public Service Regulations, 2016

- **Chapter 2:** Contains the Code of Conduct, which emphasizes putting public interest first, avoiding conflicts of interest, and not using official resources for personal gain.
- **Regulation 23(1):** Requires the designation of ethics officers to manage ORW processes within departments.
- **Regulation 24:** Requires the Minister to determine a process and an application form to apply for ORW.

3.5 Directive on Other Remunerative Work Outside an Employee's Employment in the Relevant Department

The Directive provides detailed process and requirements for obtaining permission to engage in ORW, ensuring compliance with the Public Service Act, 1994.

4. KEY CONCEPTS

4.1 Conflicts of Interest

A conflict of interest is a situation in which the professional functions of a public service employee are incompatible with other responsibilities they have. Those commitments with competing interests may arise both within the government and in an external context. The interests involved can be professional, financial, political, or personal. They are irreconcilable with the professional duties of a public service employee if they may have an impact on the impartiality of the decisions and practices related to their primary public service functions.

4.2 Other Remunerative Work

Any work performed by an employee outside his or her employment in the relevant department for which a fee, allowance, payment, or benefit for services rendered is made. It includes multiple activities such as consultancy work and retainership. Non-remunerated work is not covered by the Directive. The department should establish a policy to address and regulate such activities.

4.3 Conducting Business with an Organ of the State (CBOS)

CBOS refers to engaging in any business, trade, occupation, profession, calling, industry, or undertaking of any kind, or any activity carried on for gain or profit by any person, that involves transactions or contractual relationships with any "organ of the state." An "organ of state" includes any department or administration within the national, provincial, or local government spheres, or any other functionary or department exercising public power or performing public functions under the Constitution or any legislation¹.

4.4 Distinction and intersection between ORW and CBOS

ORW refers to work performed by a public service employee outside their primary employment for which they receive compensation. This work is separate from their

¹ For more information read the Directive on Conducting Business with an Organ of the State.

official duties. In contrast, CBOS involves engaging in activities where the employee or their associates have direct or indirect transactions with an organ of the state for financial gains. The key distinction is that ORW may not necessarily involve dealing with organs of the state, while CBOS directly relates to dealings with organs of the state. Approval to perform ORW does not grant the employee permission to engage in business with an organ of the state. Even **deemed approval** cannot be used to justify conducting business with an organ of the state.

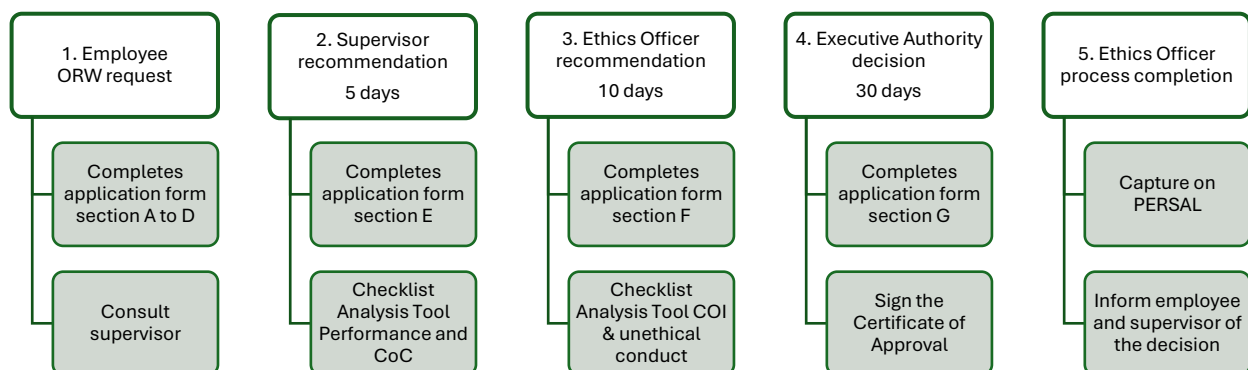
4.5 Remuneration

Any payment or benefit in cash or in-kind (PSR, 2016).

4.6 Deemed approval

Deemed approval refers to a situation where a request for permission of ORW has been submitted by a public service employee and the executive authority fails to provide a decision within the prescribed period (30 days). In such cases, the request is automatically considered approved, ensuring that delays in decision-making do not unnecessarily hinder the employee's ability to engage in the proposed activity. This concept ensures fairness in cases where administrative processes are prolonged.

5. WORKFLOW (ORW APPLICATION PROCESS)



6. ROLES AND RESPONSIBILITIES

6.1 Employee

- Familiarise him/herself with the ORW prescripts (sections 30 and 31 of the Public Service Act, 1994, Public Service Regulations, 2016, and the Directive).
- Consult with the supervisor before submitting the form (whether manual or online)
- Complete and submit the ORW manual or digital application form (sections A to D) to initiate the process.
- The application should be submitted well in advance to ensure sufficient time for processing without haste, ideally allowing 45 days for completion.
- Ensure all information related to the ORW is accurate and complete. Be prepared to provide additional details if requested by the Ethics Officer, Supervisor, or EA.

6.2 Supervisor

- Upon receiving the ORW application, review the form (section A-D) for completeness.
- Conduct a comprehensive assessment (*with the ORW Supervisor Analysis Tool*) of the ORW application, considering time commitment, competing priorities, leave and absences, performance, etc).
- Make a recommendation² (support or /support with conditions or not supported) based on the assessment.
- Provide justification for the recommendation, with the supervisor tool available to assist in this process.

6.3 Ethics Officer (EO)

- Conduct an evaluation of the ORW application (*with the ORW Ethics Officer Analysis Tool*), focusing on conflicts of interest, unethical conduct, and failure to meet code of conduct requirements.

² It is not the supervisor's responsibility to approve or not approve. With whatever recommendation, the supervisor must submit the application form to the Ethics Officer.

- Prepare a well-documented recommendation (approval/approval with conditions/not to be approved) based on the assessment.
- Similarly, with the supervisor, the Ethics Officer should submit the application form to the Executive Authority, regardless of whether he/she recommends approval.
- After receiving the EA's decision, notify the employee and supervisor of the outcome.
- Sign the “deemed approval certificate” in case 30 days pass without action from the Executive Authority.
- Raise awareness among employees regarding the ORW prescripts.

6.4 Executive Authority (EA)

- Review the supervisor and EO's recommendations and make the final decision.
- Approve or deny the application and sign the Certificate of Approval if accepted.
- Return the decision to the Ethics Officer for final processing.
- The Executive Authority function can be delegated however, care should be taken not to delegate this function to employees below the Senior Management Service level.

7. ORW APPLICATION PROCESS

Two Ways to Apply

Employees can apply for Other Remunerative Work (ORW) through one of two methods:

7.1 Online System (eDisclosure): A streamlined and integrated process for submitting, evaluating, and tracking applications. The system is available at www.edisclosure.gov.za.

7.3 Manual Method (Paper): Using the ORW Application Form and associated tools.

Note: The manual method will be phased out in the near future, and only the eDisclosure system will be used. The steps below outline the actions for both methods.

(i) Initial application (employee's responsibility)

General information

- All users, including employees and supervisors, must register on the eDisclosure system when using the online application system.
- Designated employees do not need to register again, as the system automatically retrieves their details.
- Employees must have their supervisor's PERSAL number to submit an online application for ORW.

Step-by-Step Process:

- **Complete the ORW Application Form:**
Fill out sections A-D of the ORW Application Form (Annex A of the Directive) or complete the digital application via the eDisclosure system, including personal details, working hours, and a detailed description of the ORW.
- **Attach Required Documents:**
Attach any supporting documents related to the ORW, such as contracts or agreements, either manually with the form or digitally through the eDisclosure system.
- **Consult Supervisor:**
Before submitting, consult your supervisor as per the directive. For eDisclosure applications, supervisor details are automatically linked through the system.
- **Submission Deadline:**
Submit the completed application—manually or digitally—at least 45 days before the planned start date of the ORW.

Reference:

- Annex A of the Directive: ORW Application Form.
- eDisclosure System: *If not already registered, you must complete your registration on the website before submitting your application.*

(ii) Supervisor's assessment (within 5 working days)

Supervisor's role:

An evaluation is made using the Supervisor Analysis Tool (Annex B of the Directive) or the integrated tool within the eDisclosure system, where they assess:

- **Time Commitment:**
Ensure that the ORW hours will not conflict with the employee's regular duties.
- **Competing Priorities:**
Evaluate if the ORW will interfere with the employee's primary responsibilities or organisational goals.
- **Leave and Absences:**
Review the impact of the ORW on the employee's leave and absences.
- **Performance:**
Assess whether the ORW will impact the employee's ability to meet job objectives.
- **Disclosure & Transparency:**
Verify that the employee has disclosed all other remunerative work commitments.

Recommendation:

- Based on this analysis, the supervisor will either support or support with conditions or not support the application by filling out the *ORW Application Form Section E* or submitting it digitally via eDisclosure.

- Supervisors must provide reasons (justification) for supporting or not supporting the application. This step is mandatory in the online system, and the application form cannot be submitted to the Ethics Officer without completing this section.
- The application form must be submitted to the Ethics Officer, regardless of whether it is supported or not.

Reference Tools:

- **Annex A of the Directive:** ORW Application Form;
- **Annex B of the Directive:** ORW Analysis Tool for Supervisors.

(iii) Ethics Officer's analysis (within 10 days)

Ethics Officer's role:

An evaluation is made using the Ethics Officer Analysis Tool (Annex C of the Directive) or the integrated tool within the eDisclosure system, where they assess:

- **Conflict of Interest:**
Assess the potential for personal, financial, political, or professional conflicts of interest.
- **Conducting Business with the State:**
Verify that the ORW does not involve conducting business with any state organs.
- **Unethical Conduct:**
Evaluate if the ORW risks unethical behavior, such as misuse of state resources or disclosure of sensitive information.

Recommendation:

- Based on the analysis, the Ethics Officer will recommend or not recommend the application by completing Section F of the ORW Application Form or submitting it digitally via eDisclosure.

- Submit the application form to the EA, regardless of whether the application is recommended for approval or not.
- Provide reasons for recommending or not recommending the application.
- Monitor the process once the application form is submitted to the EA.
- If no decision is made by the EA within 30 days, issue a “deemed approval certificate” to the employee. Notify the supervisor, Head of Department (HOD), and EA about the issuance of the “deemed approval certificate”.

Reference Tools:

- **Annex A of the Directive:** ORW Application Form; and
- **Annex C of the Directive:** ORW Analysis Tool for Ethics Officers.

(iv) Executive Authority decision (within 30 days)

Final Decision Process:

- **Review Recommendations:**

The Executive Authority will review both the Supervisor and Ethics Officer’s recommendations.

- **Approval/Denial:**

The Executive Authority will approve or deny the ORW application, sign the *Certificate of Approval (Annex D)* if approved, and return it to the Ethics Officer for further processing, either manually or via the eDisclosure system.

- If the application is not approved, the EA must provide reasons for the decision. The online application process cannot be finalized until this step is completed.

Notification: The Ethics Officer will inform the employee and supervisor of the decision and provide the employee with the certificate of approval or feedback if the application is not approved and reasons for the decision.

Reference Forms:

- **Annex A of the Directive:** ORW Application Form; and
- **Annex D of the Directive:** Certificate of Approval.

(v) Deemed Approval (If EA doesn't respond within 30 working days)

What is Deemed Approval?

- If the Executive Authority does not approve or deny within **30 working days** of receiving the application, permission is automatically granted.
- **The Ethics Officer** issues a **Deemed Approval Confirmation (Annex E of the Directive)** to the employee either manually or via the eDisclosure system.
- After 30 working days, a “deemed approval certificate” will be issued, even if the supervisor or Ethics Officer did not support the application. However, the deemed approval certificate will not be issued if the approval constitutes conducting business with an organ of the state.

Reapplication Deadline:

- If the employee wishes to continue the ORW after the deemed approval period (up to 12 months), they must submit the *Reapplication Form (Annex F of the Directive)* manually or via the eDisclosure system **60 working days before** the current approval expires

Reference Forms:

- **Annexure E of the Directive:** Deemed Approval Confirmation
- **Annexure F of the Directive:** Reapplication Form Letter

(vi) Monitoring and Compliance

Ongoing Monitoring:

- The Supervisor will monitor the employee's ORW performance and ensure it does not interfere with their duties.
- The Ethics Officer will track any conflicts of interest or unethical conduct.

TIMEFRAME SUMMARY

- Employee submission of the application form:
At least 45 working days before the ORW start date.
- Supervisor's assessment:
Within **5 working days** after receiving the application.
- Ethics Officer's analysis:
Within **10 working days** after receiving the supervisor's assessment.
- Executive Authority decision:
Within **30 working days** from the receipt of the completed application form from the Ethics Officer.
- Deemed Approval:
If no decision from the EA within **30 working days**, approval is automatically granted.
- Reapplication submission:
60 working days before the current approval expires.

ANNEXURE A: FREQUENTLY ASKED QUESTIONS

1. Do I need to obtain approval for all types of additional paid work?

Yes, approval is required for any remunerative work outside your primary employment in the public service. This ensures compliance with regulations and prevents conflicts of interest.

2. How long does it take to process an ORW application?

The process takes approximately 45 working days. The EA has 30 working days from the date your application is submitted to his/her office to consider the application and decide on whether to approve or reject your application. The employee must ensure that the application is submitted at least 45 days before the planned start date of the ORW.

3. What happens if my application isn't approved or denied within 30 days?

If the Executive Authority does not respond within 30 days, the application is considered automatically approved under the deemed approval provision. You will be issued a confirmation (Annex E) by the Ethics Officer. The "deemed approval" does not give permission to conduct business with an organ of the state.

4. If the EA respond within the 30 working days and rejects your application, then the rejection cannot be appealed within the department. Section 30 of the PSA does not provide for the appeal of this decision. The employee is, however, entitled to reasons for decline of the application.

5. Can I engage in ORW before receiving formal approval?

No, employees must wait for formal approval from the Executive Authority before starting any ORW to avoid violations of the ORW directive.

6. What should I do if I need to renew my ORW approval?

Submit a Reapplication Form (Annex F) at least 60 working days before your

current approval expires. Failure to do so may result in a lapse in authorization for your ORW.

ANNEXURE B: GENERAL INFORMATION REGARDING APPLICATION TO PERFORM ORW

1. The Directive applies to all employees appointed under the Public Service Act, 1994. If your contract stipulates that you are subject to the provisions of the Public Service Act, the Directive on Other Remunerative Work applies to you, regardless of whether you are an intern, part of the EPWP programme, or employed on a contract or temporary basis.
2. Employees receiving no remuneration are not required to apply for Other Remunerative Work (ORW). However, the Department should develop a policy for regulating work outside the department, as such activities may present conflicts of interest or interfere with the employee's performance. This work cannot be regulated through the ORW policy.
3. ORW does not include passive income, such as benefits received from a trust, dividends paid to shareholders, or money from matured policies. Cases involving rental income should be evaluated individually, based on the information provided by the employee.
4. Approval for ORW does not grant permission to conduct business with an organ of the state.
5. Regardless of whether the supervisor and/or Ethics Officer supports the application for ORW, it must be submitted to the Executive Authority (EA) for approval or rejection.
6. Performing ORW without approval constitutes misconduct. The employee may be required to pay back any remuneration into the government revenue account. If the employee fails to do so, the Head of Department may recover the amount through

legal proceedings and deposit it into the revenue account.

7. Employees requiring leave to perform ORW must use annual leave.
8. Employees representing Executive Authorities on boards of State-Owned Enterprises should not receive remuneration for their board roles and are therefore not required to apply for ORW. The department should cover the costs of the employee's participation, while the company may directly cover expenses such as accommodation, meals, and travel.
9. Employees must obtain permission to perform ORW, even if it is carried out outside regular working hours (e.g., weekends, holidays, or after hours).
10. Approval for ORW will not extend beyond the current financial year.
11. Employees are prohibited from using state resources to perform ORW.
12. Approval for ORW is not transferable. Employees cannot carry over the approval to a new position or department. If circumstances change (e.g., a new position or transfer to another unit or department), a new application must be submitted.

ANNEXURE C: DEPARTMENTAL POLICY AND PROCEDURE ON OTHER REMUNERATED WORK

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DEFINITIONS

Consider this section after drafting the policy. Definitions should include the following:

- **Other Remunerated Work:** Any paid work performed by an employee outside their primary employment with the Department.
- **Conflict of Interest:** A situation where an employee's personal interests could interfere with their professional duties in the Department.

ACRONYMS

1. INTRODUCTION

- Why the policy? What are you trying to achieve with this policy?
- Consider the risks the Department faces if this Policy is not implemented. These might be based on the risk assessment conducted by the Department.

2. PURPOSE AND OBJECTIVES

The purpose of this policy is to guide employees who wish to apply for approval to perform other remunerated work outside their employment in the Department.

The objective of the Policy is to ensure that other remunerative work does not conflict with the employee's functions in the Department or affect the employee's performance of his/her duties.

3. LEGISLATIVE FRAMEWORK

3.1 Public Service Act, 1994 (sections 30 and 31);

3.2 Public Service Regulations, 2016 (Regulation 13(i))

3.3 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.

3.4 Consider any other policy relevant to the Department's employees e.g. in Education, South African Police Service, or Department of Defence, the employing Acts might also have an impact on this Policy. There might also be other internal policies that affect the implementation of this Policy in the Department.

4. SCOPE

4.1 Who does the Policy apply to (consider employees, including full-time, part-time, and temporary staff); and

4.2 Outline who is not affected by this Policy (if any).

4.3 REMEMBER: The Department cannot go against the National Legislation and Policy.

5. POLICY STATEMENT

5.1 Employees should not perform other remunerated work outside their employment in the Department without approval by the Executive Authority (EA) or delegated authority.

5.2 Employees may engage in other remunerated work provided it does not:

- Conflict with the employee's responsibilities in the Department (potential, perceived, or actual conflict of interest); and
- Interfere with the employee's duties and responsibilities (consider conflict over the employer's time and resources). The primary employment of the employee is with the Department.

5.3 The employee who has permission to perform other remunerated work shall not:

- (i) Perform such work during official working hours; and
- (ii) Use official equipment or state resources for such work.

5.4 Prohibited other remunerated work

- Consider the work that outrightly presents a conflict of interest (potential, actual, or perceived) so that employees know that they cannot apply for permission to perform such work.
- The kind of ORW that employees are prohibited from doing (because such presents a clear conflict of interest or contravention of the Code of Conduct, conducting business with an organ of the state, or the risks facing the department).
- Prohibition of performing ORW during working hours or using state resources to perform ORW.
- Conditions under which the ORW will be reviewed even if the validity period has not yet expired. In line with section 5(7) of the Act, any decision made by the executive authority 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 pertaining to his/her involvement in ORW.
- Disciplinary process should be followed in case of misconduct.
- Any restrictions for new employees or employees on probation.
- Limitation in terms of the number of approvals per employee/number of hours to perform ORW.
- The Ethics Officer should report to the HOD, at least quarterly on the applications for ORW, approved applications, and declined applications.

6. APPLICATION PROCEDURE

6.1 Application for approval

6.2 Review and approval

6.3 Deemed approval

7. MONITORING COMPLIANCE

- Employees must report any changes in their other remunerated work to their supervisor.
- Frequency of reporting ORW activities in the department to the HOD

9. ROLES AND RESPONSIBILITIES

8.1 Employee:

- a) Consult with the supervisor regarding his/her intention to apply for ORW;
- b) Seek approval, report changes, and comply with this Policy; and
- c) Reapply for permission after the expiration of the approval (including deemed approval).

8.2 Supervisor

Review applications, consult with the human resource unit , and monitor compliance.

8.3 Ethics Officer

Provide guidance and support in the review process.

8.4 Executive Authority

Approve or not approve the application and provide reasons for the decision taken.

10. CONSEQUENCES OF NON-COMPLIANCE

Failure to comply with this policy may result in disciplinary action, up to and including termination of employment.

11. EFFECTIVE DATE

This policy is effective from [Date].

12. REVIEW DATE

This policy will be reviewed annually and updated as necessary.

13. APPROVAL

This policy has been approved by [Name/Title] on [Date].