

# *Policy on Remunerative Work Outside Employment*

## **1. INTRODUCTION**

- 1.1 The Public Service Act, 1994 as well as the Employment of Educators Act, 1998, *inter alia* stipulates that employees/educators shall place the whole of their time at the disposal of the employer unless it is otherwise provided for in their conditions of employment.
- 1.2 Furthermore, the Public Service Act, 1994 and the Regulations Regarding the Terms and Conditions of Employment of Educators stipulate that any remuneration, allowance or other reward received by an employee/educator, other than in accordance with their employment in terms of the relevant act or regulations, shall be paid into revenue, and if employee/educator does not do so, shall be recovered in accordance with Section 31 of the Public Service Act, 1994 (employees) or Regulation 14 (Regulations regarding the terms and conditions of educators from him/her and paid into revenue.
- 1.3 In instances where remunerative work is performed for which no prior approval has been obtained no ex post facto approval may be granted and in such instances paragraph 1.2 will apply.

## **2. PURPOSE**

- 2.1 To provide measures/guidelines to be utilized in considering applications to perform remunerative work outside an employee's/educator's employment.

## **3. AUTHORISATION**

The mandate for this policy is found in the following prescripts:

- 3.1 Section 30 and 31 of the Public Service Act, 1994 as amended.
- 3.2 Section 33 of the Employment of Educators, 1998
- 3.3 Chapter 2 of the Public Service Regulations, 2001
- 3.4 Regulation 14 of the Regulations Regarding the Terms and Conditions of Employment of Educators.

## **4. RESPONSIBILITIES**

- 1.1 It is the responsibility of every employee/educator to obtain prior approval for remunerative work outside his/her employment.
- 1.2 The authority to approve remunerative work rests with the MEC for Education and Culture (or his/her delegate) in respect of employees and the Head of Department in respect of educators.

## **4. SCOPE OF APPLICATION**

The provisions of this policy shall apply to all educators/employees in the KwaZulu-Natal Department of Education and Culture employed in terms of the Employment of Educators Act 1998 and the Public Service Act 1994, respectively.

## **5. MEASURES/PROVISIONS PERTAINING TO REQUESTS**

### **5.1 General Measures**

- 5.1.1 Each application to remunerative work outside employment is considered with due regard to-
- 5.1.2 the staff position and the state of work in the office/section/institution in which the employee/educator is employed;
- 5.1.3 the possibility that the nature and extent of the work in relation to the employee's/educator's normal duties may lead to a conflict of interests.
- 5.1.4 The principles of Batho Pele.
- 5.1.5 In instances where remunerative work is performed for which no prior approval has been obtained no ex post facto approval may be granted and in such instances paragraph 1.2 will apply.

### **5.2 Conditions**

The following conditions must be strictly adhered to when considering applications to perform remunerative work outside employment.

- 5.2.1 The initial remunerative work to be undertaken by the employee/educator should in no way hampers him/her in the performance of his/her official duties.
- 5.2.2 Subject to the provisions contained in subparagraph 6.3, the work should be performed entirely outside the prescribed hours of attendance (work).
- 5.2.3 The work should not be of such a nature that the Public Service (employer) or the Government may be embarrassed in any way.

### **5.3 Remunerative Work During Official Hours**

Notwithstanding the stipulation in subparagraph 6.2.2, an employee/educator may be authorized to perform remunerative work outside his/her employment in respect of periods for which study leave has been granted in order to perform practical work or practice teaching in an office, institution or educational institution of a government department.

Applications in this regard are considered with due regard to-

- 5.3.1 the general availability of other suitable persons outside the Public Service to undertake the work to be performed;
- 5.3.2 the special qualifications, skills or abilities that the employee/educator possesses and which will make it either difficult or impossible to find someone else outside the Public Service to perform the work;
- 5.3.3 the nature and extent of the work;
- 5.3.4 the nature and extent of the remuneration;
- 5.3.5 the duration of the intended remunerative work;
- 5.3.6 the specific times of absences during official hours;
- 5.3.7 the impact of absences on the other (remaining) staff; and
- 5.3.8 the possibility that the employee/educator rather be seconded to the relevant institution and that he/she not be remunerated by the relevant institution, in which case the relevant

institution shall compensate the Department for the employee's/educator's services.

## **6. PROCEDURE PERTAINING TO APPLICATIONS**

The prescribed application form (Annexure A) as well as the prescribed undertaking (Annexure B) must be completed in respect of all requests for remunerative work outside employment.

## **7. MONITORING**

The Human Resource Component should on a continuous basis monitor and evaluate the provisions contained in this policy with the actual position as reflected in applications as well as in respect of problem areas that may arise after approval, in order to identify needs which could necessitate a revision of these provisions.