

## NATIONAL INSTRUCTION 4 OF 2012

### PERFORMANCE OF REMUNERATIVE WORK

#### 1. Background

- (1) Regulation 20(m) of the South African Police Service Discipline Regulations, 2006, provides that an *employee* commits misconduct if he or she, without the written approval of the employer, performs work for compensation in a private capacity for another person or organisation either during or outside working hours.
- (2) The purpose of this Instruction is to regulate the circumstances in which —
  - (a) approval may not be granted to an *employee* to perform certain types of remunerative work or to engage in certain activities for gain; and
  - (b) approval may be granted to an *employee* to work for compensation in a private capacity for another person or organisation or engage in any trade, business or undertaking outside working hours and the process to follow in order to apply for such approval.

#### 2. Definitions

In this Instruction, unless the context otherwise indicates, —

- (a) “*employee*” means any person employed by the *Service*;
- (b) “*employer*” means the National Commissioner or any person delegated by him or her to exercise a power or authorized by him or her to perform a duty;
- (c) “*Explosives Act*” means the Explosive Act, 1956 (Act No. 26 of 1965);
- (d) “*remunerative work*” means work, except functions in *the Service*, for gain and includes —
  - (i) engaging in any trade or business;
  - (ii) undertaking or taking part in any commercial, industrial, farming or other agricultural activity;
  - (iii) undertaking any private agency; and
- (d) “*the Service*” means the South African Police Service.

### 3. Prohibition on the granting of approval to a employee to perform certain types of remunerative work or to engage in certain activities for gain

Approval may not be granted to an *employee* to perform any *remunerative work* if such work or activity —

- (a) is in any manner connected to the taxi industry (this includes, but is not limited to, the operation of a taxi service by the *employee*, himself or herself or by employing another person, or the performance of *remunerative work* for a taxi association, group of taxi owners or operators or for a single taxi owner or operator);
- (b) is in any manner connected to a brothel, escort agency or any other undertaking which -
  - (i) remunerates persons to perform sexual acts or striptease dancing, or to serve as waiters or waitresses while naked or semi-naked;
  - (ii) supplies persons to clients for purposes of allowing such clients to perform sexual acts with such persons;
  - (iii) sells, distributes or promotes any form of pornographic material or sexual aid (other than a sexual aid prescribed by a medical practitioner); or
  - (iv) is involved in the taking of pornographic photographs or the making of pornographic sketches, films, videos or computer readable material;
- (c) involves posing for pornographic photographs or sketches or performing in pornographic films, videos or programmes;
- (d) is regulated by the *Explosives Act*, if -
  - (i) such an *employee* is attached to the Bomb Disposal and Explosives Unit;
  - (ii) such an *employee* is not in possession of the required qualification to perform such work or activity;
  - (iii) such an *employee* is an inspector under the *Explosives Act*;
  - (iv) the appointment of such an *employee* as inspector under the *Explosives Act*, has been withdrawn because of -
    - (aa) his or her non-compliance with the provisions of the *Explosives Act*;
    - (bb) the negligent performance of his or her functions or work as provided for by the *Explosives Act*; or
    - (cc) the conviction of a criminal offence or the commission of misconduct as a result of the non-compliance with the provisions of the *Explosives Act*, or as a result of the negligent performance of his or her functions or work as provided by the *Explosives Act*;

- (v) approval is sought to perform the work or activities for longer than six calendar months (if approval is granted to perform such work, the position must be reviewed every six calendar months and may only be renewed if the conduct of the *employee* within the previous period had proved that his or her main priority as an *employee of the Service* can really be reconciled with such work);
- (e) involves any trade in liquor or the keeping of a tavern or shebeen;
- (f) involves the preparation or completion of applications for liquor licences if such an *employee* is a designated liquor officer or an *employee* who works directly with applications for liquor licences;
- (g) requires an *employee* to serve as bouncer or chucker-out;
- (h) is in any manner connected to the tow-in or breakdown service industry (this includes, but is not limited to, the operation of a tow-in or breakdown service by the *employee* himself or herself or through another person, or the performance of *remunerative work* for an association of persons or entities operating tow-in or breakdown services, a group of persons or entities operating tow-in or breakdown services, or for a single tow-in or breakdown service owner or operator);
- (i) involves the rendering of a physical security service;
- (j) involves insurance investigations and investigations on behalf of agencies handling claims against the Road Accident Fund. (Approval may be granted for the marketing or selling of insurance products outside working hours but not to another *employee* during the working hours of such other *employee*, except union related products in accordance with the procedural agreement between management and the unions);
- (k) involves assistance to persons with their applications for firearm licences or drivers' licences;
- (l) is in any manner connected to the gambling industry;
- (m) involves the serving of court process (excluding the serving of summonses in civil cases);
- (n) involves private investigation services (this includes, but is not limited to, performing tracing work as a tracing agent or for a tracing agent, money lender, debt collector or financial institution, the performance of private detective work, the interception of communications or the planting of electronic bugging devices);

- (o) involves trading in live stock (excluding such trading as part of bona fide farming activities);
  - (p) involves operating a scrapyard;
  - (q) involves micro lending services;
  - (r) involves conducting the business of trading in second-hand goods;
  - (s) is in any manner connected to a business or industry which has contracted with or submitted a tender to the State to render a service or to supply a product to *the Service*;
  - (t) is a work or activity in respect of which a report or recommendation from *the Service* is required in order to pursue the work or activity; or
  - (u) is in any manner connected to the business of a funeral undertaker.
4. Transitional arrangements
- (1) An *employee* in respect of whom approval was granted to perform *remunerative work*, subsequent to representations made in terms of par 4 of National Instruction 7 of 2000, and which approval was confirmed on a yearly basis may still be considered by the relevant functionary.
  - (2) No new applications to perform any *remunerative work* or to engage in any activity for gain if such work or activity mentioned in par 3 of this instruction may be approved.
- 5. Application to perform remunerative work**
- (1) In order for an *employee* to obtain the written approval of the *employer*, he or she must apply for such approval by completing the Application to Perform Remunerative Work: South African Police Service form (Annexure A). The application form must be sent to the delegated functionary under cover of a letter, which is recommended by the direct supervisor of the *employee*, the relevant station commander, cluster commander and provincial head under whom the *employee* resorts (or in the case of an *employee* attached to a Head Office component, the recommendation of his or her direct supervisor and component head).
  - (2) Full details of the work for remuneration or of the undertaking, the name of the employer, the nature and the place of employment must be disclosed in the application.

## 6. Consideration of the application to perform remunerative work

- (1) The delegated functionary, to whom the power has, in accordance with the delegation of powers been delegated, may approve or disapprove an application received in terms of paragraph 5. The delegated functionary must make his or her decision known as soon as practically possible, but not later than 30 days after receipt of the application.
- (2) If the *employer* does not approve an application, the delegated functionary must provide written reasons for the refusal to give permission;
- (3) The affected *employee* may, within 30 days of receiving the outcome of his or her application, make representations to the delegated functionary for the decision to be reconsidered.
- (4) The *employer* must inform the *employee* concerned of the outcome of his or her representations within 30 days from receipt of the representations.
- (5) An approval to perform other *remunerative work* is only valid for a particular financial year (1 April to 31 March) and may, therefore, only be granted until the end of the financial year in which the application was made. Every *employee* to whom approval was granted must reapply for approval before 31 March of each year.
- (6) An *employee* who has been granted approval must immediately advise his or her commander in writing of any change of employment or of venture, or of *employer* or place of employment in order that the matter may, if necessary, be reconsidered.
- (7) If an *employee* is promoted, he or she must reapply for approval to perform *remunerative work*.

## 7. Circumstances under which approval to perform remunerative work may be granted

Approval to perform *remunerative work* may only be granted by the *employer* if —

- (a) the *employee* does not bind himself or herself to another *employer* to the detriment of performing of his or her duties in *the Service*;
- (b) the execution of these additional duties for remuneration does not in any way disadvantage or foil the interests of *the Service*;
- (c) *the employee* does not utilize the resources or time of *the Service* to perform the *remunerative work*; and
- (d) performing the *remunerative work* will not conflict with the interests

of the Service.

## 8. Recordkeeping

- (1) An approved application-form must be filed in the personnel file of the relevant *employee* under subfile/10.
- (2) Every Divisional and Provincial Commissioner must keep a database of all applications for *remunerative work*, indicating —
  - (a) the Persal number, rank and name of the applicant;
  - (b) the nature of the *remunerative work* applied for;
  - (c) whether the application was approved or not; and
  - (d) if approved, the date of approval.
- (3) Every Divisional and Provincial Commissioner must before 30 April of each year submit to the Divisional Commissioner: Personnel Management a name list of *employees* resorting under him or her in respect of whom approval was granted to perform *remunerative work* for that financial year. The Divisional and Provincial Commissioner must, thereafter, submit an updated list on a quarterly basis.

Annexure A

## APPLICATION TO PERFORM REMUNERATIVE WORK: SOUTH AFRICAN POLICE SERVICE

Financial Year: 1 April \_\_\_\_\_ until 31 March \_\_\_\_\_

I, the undersigned, hereby apply to perform remunerative work in accordance with National Instruction 4 of 2012 (Performance of Remunerative Work) and accordingly submit the following information for consideration:

### PART A

#### PERSONAL PARTICULARS OF APPLICANT

Surname and initials: _____	Persal number: _____
Residential address: _____ _____ _____	Postal address: _____ _____ _____
Rank: _____	Name of Department: <b>South African Police Service</b>
Position/Stationed at: _____ _____	Province/Division: _____
Tel: _____	Fax: _____

## 2. DETAILS OF REMUNERATIVE WORK

NAME OF CORPORATE ENTITY/ PARTNERSHIP	TYPE OF BUSINESS/ CAPACITY	AMOUNT OF REMUNE- RATION	CURRENT CORPORATE CLIENT/S OF BUSINESS	PROJECTED CORPORATE CLIENT/S OF BUSINESS

Do you have any shares in the business?	Yes	No
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What is the percentage of your shareholding?	
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Do you hold a directorship/partnership in the business?	Yes	No
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What is the amount of remuneration/benefits you receive as a result of your directorship?	
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CLIENT AFFILIATION	NATURE OF BUSINESS	VALUE OF ANY BENEFITS RECEIVED



**PART B**

1. Do you or any member of your family (your spouse, children, father, mother etc) have shares/directorships/partnerships in the business referred to in paragraph 2 of Part A?

Yes	No	(Initial relevant column)
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If yes, provide the following information with regard to yourself or the relevant family member:

**PERSONAL PARTICULARS: SPOUSE AND/OR CLOSE FAMILY MEMBER**  
(please duplicate if more than one)

<b>Surname and initials:</b> _____		<b>Current position:</b> _____	
<b>Relationship</b> _____			
<b>Own business:</b>	<b>YES</b>	<b>NO</b>	<b>Name of business</b> _____
			<b>Type of business</b> _____
<b>List the current service providers:</b> _____ _____ _____ _____ _____		<b>List the projected service providers:</b> _____ _____ _____ _____ _____	
<b>Telephone number of business:</b> _____		<b>Fax number of business:</b> _____	

**PART C: MOTIVATION FOR APPLICATION**

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I have noted the provisions of National Instruction 4 of 2012 (Performance of Remunerative Work).

Should my application be approved, I accept the following conditions:

- I may not use the resources or time of the SAPS to perform the remunerative work, if approved.
- The approval may at any time be withdrawn, if –
  - the remunerative work as set out above, is in any way to the detriment of the performance of my duties in the SAPS; or
  - to the disadvantage of or foil the interests of the SAPS.
- The approval is only valid for the period indicated below.
- I must inform my commander in writing if any of the information submitted in this application, changes.

**PART D: DECLARATION**

I know and understand the content of this declaration.  
I have (have no) objection to taking the prescribed oath.  
I consider the prescribed oath to be (not to be) binding on my conscience.

**SIGNATURE OF APPLICANT**

**CERTIFICATE BY COMMISSIONER OF OATHS:**

3. I certify that the deponent has acknowledged that he/she knows and understands the content of this declaration which was sworn to or affirmed before me and the deponent's signature was put on it in my presence at ..... (place) on ..... (date) at ..... (time).

.....  
**(SIGNATURE) COMMISSIONER OF OATHS**

.....  
**FULL FIRST NAMES AND SURNAME  
(BLOCK LETTERS)**

.....  
**BUSINESS ADDRESS (STREET ADDRESS)**

.....  
**DESIGNATION (RANK)**

Application recommended/not recommended

Reason/s if not recommended

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**SIGNATURE: COMMANDER**



Application approved/not approved:

Reason/s if not approved:

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**PROVINCIAL/DIVISIONAL COMMISSIONER**

Date:

Place:

**APPLICATION SUBMITTED FOR RECONSIDERATION (WITHIN 30 DAYS AFTER REFUSAL)**

YES	NO
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Representation approved/not approved

Comments:

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**PROVINCIAL/DIVISIONAL COMMISSIONER**

Date:

Place: \_\_\_\_\_