



Province of the Eastern Cape
OFFICE OF THE PREMIER

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Ref. No. 3/6/2/12

Enq. Ms NB Manona 0768114978

**TO ALL: HEADS OF DEPARTMENTS
DEPUTY DIRECTORS GENERAL**

Dear Colleagues

**CIRCULAR NO 1 OF 2024/25: MANAGING PUBLIC ADMINISTRATION AND
MANAGEMENT (PAM) ACT OFFENCES**

1. PURPOSE

The purpose of this circular is to inform Heads of Departments about the investigation of offences relating to officials doing business with the state as per provisions of the PAM ACT. The Office of the Premier's Provincial Integrity Management will be facilitating criminal investigations of officials who have traded with the state identified via the Central Supplier Data Base and by the Auditor General of South Africa in contravention of Section 8 (1) of the Public Administration Management Act (PAM Act) No.11 of 2014.

2. BACKGROUND

On 29 March 2019, the PAMA, 2014 Proclamation was gazetted, which brought section 8 of PAMA 2014 into operation (Only sections 8 & 15 of the PAMA were operationalized).



2.1 UNPACKING SECTION 8 of PAMA

- Section 8 prohibits employees in the public service and special advisors from conducting business with the state and that conducting business with the State is now a criminal offence. The Act strengthens the provisions of the Public Service Regulations, 2016 which make trading by officials with government an act of misconduct.
- Trading by officials with government is not just an act of misconduct but a criminal offence.

2.2 Section 8 (1) of the Public Administration Management Act (PAM Act) No. 11 of 2014 prohibits public service employees from conducting business with an organ of state.

2.3 In terms of Section 8 (2) of PAM Act, a contravention of subsection (1) is an offence, and any person found guilty of the offence is liable to a fine or imprisonment for a period not exceeding 5 years or both such fine and imprisonment; and constitutes serious misconduct which may result in the termination of employment by the employer.

(1) In section 8 and in section 9 of the Public Service Act (1994), “employee” includes persons contemplated in section 12A of the PSA and a person performing similar functions in a municipality.

(2) An employee may not —

(a) conduct business with the State; or

(b) be a director of a public or private company conducting business with the State.

(3) A contravention of subsection (2) —

(a) is an offence, and any person found guilty of the offence is liable to a fine or imprisonment for a period not exceeding 5 years or both such fine and imprisonment; and

(b) constitute serious misconduct which may result in the termination of employment by the employer.



3. THE CURRENT PROVINCIAL PICTURE ON CONFLICT OF INTEREST PER CSD ANALYSIS

- 3.1 The provincial report on the management of conflict of interest based on officials who were doing business with the state between 2019/20 FY and 2023/24 FY reveals more than fifty officials in various departments conducted business with government totalling R28,029,656.29.

Even though consequence management reports have been requested from departments for breach of legislation, almost no department has effectively reported on internal action and criminal prosecution taken against affected officials including SCM officials for raising orders with companies on the CSD except for PPE related incidents.

- 3.2 Though Section 8 of the Act became applicable from 01 April 2019, few Departments have instituted criminal charges against officials who have benefitted from trading with government as derived from the Central Supplier Database (CSD). Most criminal investigations conducted emanated from Covid 19 irregular procurement of Personal Protective Equipment (PPE) which have mainly been investigated by the Special Investigating Unit (SIU).

4. WHAT MUST BE PROVIDED

The following information must be furnished to the OTP by 31 May 2024:

- 4.1 Names and business details of employees discovered to have been trading with the state during the periods 2019/20, 2020/21, 2021/22, 2022/23 and 2023/24.
- 4.1.1 Specify what action/s were undertaken in terms of available prescripts guiding the way such conduct should be dealt with.
- 4.1.2 Provide information regarding type of sanction imposed.
- 4.1.3 Indicate if recovery of losses was instituted.
- 4.1.4 Departments to provide ongoing quarterly reports as indicated above, for current and future financial years.



5. ANALYSIS

5.1 Received data will be analysed and a determination shall be made per each case whether/not criminal investigation based on contravention of Section 8 (1) of PAM Act shall be required.

5.1.2 OTP-PIM shall notify the department of the outcome of the analysis and intention going forward.

5.1.3 OTP-PIM shall liaise and co-ordinate investigations with the Law Enforcement Agencies.

5.1.4 The Department shall be advised in case of the need to open a case with SAPS.

6. AUTHORITY

6.1 This Circular is issued by the Secretary to the Executive Council.

7. APPLICABILITY

7.1 This Circular applies to all provincial departments.

8. EFFECTIVE DATE

8.1 The provisions of this Office of the Premier Circular will be effective from date of signature until this correspondence has been amended or withdrawn.



9. DISSEMINATION OF INFORMATION

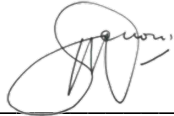
9.1 Kindly ensure that all relevant officials receive copies of this Circular.

9.1.1 Should there be any enquiries regarding the contents of this Circular please contact:

Ms Noma Nozigqwaba, Deputy Director: Fraud Investigations (PIM); Cell 079 524 1474; E-mail: nomahlwane.nozigqwaba@ecotp.gov.za

OR Ms Nobulali Gawe-Manona, Director: PIM; Cell 083 464 2867/076 811 4978 E-mail: nobulali.gawe@ecotp.gov.za

Regards,



**MBULELO SOGONI (MR)
DIRECTOR GENERAL**

04 May 2024

DATE

