

Can your side hustle get you fired?

Relying on a single income may prove unfeasible, but before getting that side hustle off the ground, employees must know what their employment contract and work policy states about supplementing their income with another job or personal business, in case they find themselves facing disciplinary action, says Tertius Wessels, advocate and legal director of Strata-g Labour Solutions.



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“As the law does not explicitly limit employees from having a second job, staff members who may find themselves with more flexibility owing to the increase in remote working may want to fill that gap with a side gig. Employees often feel having a supplementary income does not violate their employment relationship with their employer as there is often little perceived conflict of interest, especially when the correct policy clearly defining the expectations of an employee and side hustles are not in place,” explains Wessels.

A recent report by the Henley Business School shows that as many as 27% of working South Africans currently have side hustles.

Wessels says employers, however, are not always welcoming of an employee having other financial commitments outside of their daily employment, citing employees may struggle to fully engage in their daily tasks because of their side gig. But employers cannot enforce employees to not take up alternative income, especially when there is no obvious conflict of interest.

However, employees have the onus of letting their employers know if they are involved in moonlighting or have a business outside of the workplace. More so, even without the employment contract and or work policy unequivocally stating it, employees must refrain from taking up any activities that negatively impact their performance with their employer and must desist from any conduct that places the interest of the worker above that of their organisation.

Furthermore, employees who have garnered particular skills often feel that they can be used outside of their employment and soon engage in charging individual clients for the same services their employer offers. This is a clear conflict of interest because an employer who has permanently hired an employee does so to acquire the sole use of their skillset and when that same talent is no longer used to advance the interest of the employer, a conflict arises.

Wessels says while conflict of interest may be broad, it is one ground an employer can cite as cause for dismissal. The easiest way for employees to know whether they are contravening their work policies is to ask themselves whether their current side gig actions are in direct or indirect competition to that of their employers; whether or not they use company resources to execute their side business; or if their side hustle detracts their attention from performing their function with their employer?

“The best way to know if there is a conflict and to avoid it is to declare to your employer what you are engaged in and if they give you the go-ahead, then you are in the clear. Because what may be permitted in one organisation may not be allowed in another. Disclosing your interests to your superiors about a side gig can also save you from facing disciplinary action and builds a level of trust between employer and employee,” concludes Wessels.

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