

CHAPTER 2
CONDUCT, FINANCIAL DISCLOSURE, ANTI-CORRUPTION AND ETHICS
MANAGEMENT

Part 1
Code of Conduct

Adherence to Constitution and other laws

- 11.** An employee shall—
- (a) be faithful to the Republic and honour and abide by the Constitution and all other law in the execution of his or her official duties;
 - (b) put the public interest first in the execution of his or her official duties;
 - (c) loyally execute the lawful policies of the Government of the day in the performance of his or her official duties;
 - (d) abide by and strive to be familiar with all legislation and other lawful instructions applicable to his or her conduct and official duties; and
 - (e) co-operate with public institutions established under the Constitution and legislation in promoting the interest of the public.

Relationship with public

- 12.** An employee shall—
- (a) promote the unity and well-being of the South African nation in performing his or her official duties;

- (b) serve the public in an unbiased and impartial manner in order to create confidence in the public service;
- (c) be polite, helpful and reasonably accessible in his or her dealings with the public;
- (d) have regard for the circumstances and concerns of the public in performing his or her official duties and in the making of decisions affecting them;
- (e) be committed through timely service to the development and upliftment of all South Africans;
- (f) not abuse his or her position in the public service to promote or prejudice the interest of any political party or interest group;
- (g) respect and protect the dignity of every person and his or her rights as contained in the Constitution; and
- (h) recognise the public's right of access to information, excluding information that is specifically protected by law.

Ethical conduct

13. An employee shall—

- (a) not receive, solicit or accept any gratification, as defined in section 1 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), from any employee or any person in return for performing or not performing his or her official duties;
- (b) not engage in any transaction or action that is in conflict with or infringes on the execution of his or her official duties;
- (c) not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such

employee is in an official capacity a director of a company listed in schedule 2 and 3 of the Public Finance Management Act;

- (d) recuse herself or himself from any official action or decision-making process which may result in improper personal gain, and this shall immediately be properly declared by the employee;
- (e) immediately report to the relevant authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes a contravention of any law (including, but not limited to, a criminal offence) or which is prejudicial to the interest of the public, which comes to his or her attention during the course of his or her employment in the public service;
- (f) refrain from favouring relatives and friends in work-related activities and not abuse his or her authority or influence another employee, nor be influenced to abuse his or her authority;
- (g) not use or disclose any official information for personal gain or the gain of others;
- (h) not receive or accept any gift from any person in the course and scope of his or her employment, other than from a family member, to the cumulative value of R350 per year, unless prior approval is obtained from the relevant executive authority;
- (i) if he or she has permission in terms of section 30 of the Act to perform outside remunerative work, not—
 - (i) perform such work during official work hours; and
 - (ii) use official equipment or state resources for such work.
- (j) deal fairly, professionally and equitably with all other employees or members of the public, irrespective of race, gender, ethnic or social origin, colour,

sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language; and

- (k) refrain from party political activities in the workplace.

Performance of official duties

14. An employee shall—

- (a) strive to achieve the objectives of his or her institution cost-effectively and in the interest of the public;
- (b) be creative in thought and in the execution of his or her official duties, seek innovative ways to solve problems and enhance effectiveness and efficiency within the context of the law;
- (c) be punctual in the execution of his or her official duties;
- (d) execute his or her official duties in a professional and competent manner;
- (e) co-operate fully with other employees to advance the interest of the public;
- (f) be honest and accountable in dealing with public funds and use the State's property and other resources effectively, efficiently, and only for authorised official purposes;
- (g) use the appropriate mechanisms to deal with his or her grievances or to direct representations;
- (h) be committed to the optimal development, motivation and utilisation of employees reporting to him or her and the promotion of sound labour and interpersonal relations;
- (i) avail himself or herself for training and development;

- (j) promote sound, efficient, effective, transparent and accountable administration;
- (k) give honest and impartial advice, based on all available relevant information , in the execution of his or her official duties;
- (l) honour the confidentiality of official matters, documents and discussions;
- (m) not release official information to the public unless he or she has the necessary approval;
- (n) when on official duty, dress and behave in a manner that is befitting of a public service employee;
- (o) not consume alcoholic beverages or any other non-medicinal substance with an intoxicating effect while on duty or shall not report for duty under such influence;
- (p) not misrepresent himself or herself or use the name or position of any other employee or person to unduly or improperly influence any decision making process or obtain any undue benefit; and
- (q) shall immediately report any non-compliance of the Act to the head of department.

Employees as candidates for elections

15. (1) An employee who is issued with a certificate in terms of section 31(3) of the Electoral Act, 1998 (Act No. 73 of 1998), stating that he or she is a candidate in an election, shall, not later than the next working day, inform his or her head of department in writing thereof and submit a copy of the certificate.

(2) The employee shall be deemed to be on annual leave from the date following the date the certificate is so issued until, if he or she is—

- (a) elected and accepts election, the date immediately before the date he or she assumes office;
- (b) elected, but declines election, the date that he or she declines election; or
- (c) not elected, the date of the designation of representatives in terms of item 16 to Schedule 1A to the Electoral Act, 1998.

(3) If the employee has insufficient annual leave, he or she shall be deemed to be on unpaid leave for the period in question.

Part 2

Financial Disclosure

Definitions

16. In this Part, unless the context indicates otherwise—

"designated employee" means—

- (a) any member of the SMS;
- (b) any other person in terms of section 36(3) of the Public Finance Management Act approved or instructed by the relevant treasury to be the accounting officer of a department; or
- (c) any other employee or category of employees determined by the Minister;

"form" means a printed or electronic form contemplated in regulation 18;

"interests" means the financial interests listed in regulation 19;

"register" means the register of interests kept in terms of regulation 17; and

"remuneration" means any payment or benefit in cash or in kind.

Register of designated employees' interests

17. (1) The Director-General: Office of the Commission shall keep a register of designated employees' interests, who are members of the SMS.

(2) A head of department shall keep a register of any other designated employees' interests not contemplated in subregulation (1).

Disclosure of designated employees' interests

18. (1) SMS members, except for a head of department shall, not later than 30 April of each year, disclose to the relevant head of department, in a form prescribed for this purpose by the Minister, particulars of all his or her interests in respect of the period 1 April of the previous year to 31 March of the year in question.

(2) A head of department shall, not later than 30 April of each year, disclose to the relevant executive authority, in the form prescribed for this purpose by the Minister, particulars of all his or her interests in respect of the period 1 April of the previous year to 31 March of the year in question.

(3) Any other designated employee not contemplated in subregulations (1) and (2) shall submit to the relevant head of department, on a date and form directed by the Minister, particulars of all his or her interests for the period as may be directed by the Minister.

(4) Any person who assumes duty as a designated employee on or after 1 April in a year shall make such disclosure within 30 days after assumption of duty in respect of the period from 1 April to date of disclosure.

(5) The head of department or executive authority, as the case may be, shall ensure that the disclosure of interests by designated employees is submitted electronically to the Commission or the relevant authority as may be directed by the Minister in terms of subregulation (3), unless otherwise determined by the Minister.

(6) An executive authority shall submit to the Commission a copy of the form submitted to the executive authority in terms of—

(a) subregulation (2) not later than 31 May of the year in question; or

(b) subregulation (4), in so far as it relates to a head of department, not later than 30 days after it has been so submitted.

(7) A head of department shall submit to the Commission a copy of the form submitted to the head of department by a member of the SMS in terms of—

- (a) subregulation (1) not later than 31 May of the year in question; or
- (b) subregulation (4), in so far as it relates to a member of the SMS, excluding a head of department, not later than 30 days after it has been so submitted.

Details of interests to be disclosed

19. The following details of interests shall be disclosed:

- (a) Shares, loan accounts or any other form of equity in a registered private or public companies and other corporate entities recognised by law:
 - (i) The number, nature and nominal value of shares of any type in any public or private company and its name; and
 - (ii) other forms of equity, loan accounts, and any other financial interests owned by an individual or held in any other corporate entity and its name.
- (b) Income-generating assets:
 - (i) A description of the income-generating asset;
 - (ii) the nature of the income; and
 - (iii) the amount or value of income received.
- (c) Trusts:

- (i) The name of the trust, trust reference or registration number as provided by the Master of the High Court, and the region where the trust is registered;
 - (ii) the purpose of the trust, and your interest or role in the trust; and
 - (iii) the benefits or remuneration received (these include fees charged for services rendered).
- (d) Directorships and partnerships:
 - (i) The name, type and nature of business activity of the corporate entity or partnership; and
 - (ii) if applicable, the amount of any remuneration received for such directorship or partnership.
- (e) Remunerated work outside the employee's employment in her or his department:
 - (i) The type of work;
 - (ii) the name, type and nature of business activity of the employer;
 - (iii) the amount of the remuneration received for such work; and
 - (iv) proof of compliance with section 30 of the Act must be attached.
- (f) Consultancies and retainerships:
 - (i) The nature of the consultancy or retainership of any kind;
 - (ii) the name, type and nature of business activity of the client concerned; and
 - (iii) the value of any benefits received for such consultancy or retainership.
- (g) Sponsorships:
 - (i) The source and description of direct financial sponsorship or assistance;

- (ii) the relationship between the sponsor and the employee;
 - (iii) the relationship between the sponsor and the department; and
 - (iv) the value of the sponsorship or assistance.
- (h) Gifts and hospitality from a source, other than a family member:
 - (i) A description, value and source of a gift;
 - (ii) the relationship between the giver and the employee;
 - (iii) the relationship between the giver and the department; and
 - (iv) a description and the value of any hospitality intended as a gift in kind.
- (i) Ownership and other interests in immovable property:
 - (i) A description and extent of the land or property;
 - (ii) the area in which it is situated;
 - (iii) the purchase price, date of purchase and the outstanding bond on the property; and
 - (iv) the estimated market value of the property.
- (j) Vehicles:
 - (i) A description (make and model) of the vehicle;
 - (ii) the registration number of the vehicle; and
 - (iii) the purchase price, date of purchase and the outstanding amount owing on the vehicle.

Confidentiality of submitted forms and register

20. (1) Subject to subregulation (3), only the following persons have access to a submitted form or the register:

- (a) The Minister;

- (b) the executive authority to whom the form is submitted;
- (c) the head of department to whom the form is submitted;
- (d) Commissioners of the Commission;
- (e) The Director-General: Office of the Public Service Commission;
- (f) The Director-General: Public Service and Administration;
- (g) The relevant designated ethics officer as contemplated in regulation 23; and
- (h) such other persons designated by the Minister, an executive authority, head of department or the chairperson of the Commission for purposes of record keeping and the effective implementation of this Part.

(2) No person who has access to a submitted form or the register may, except when a court so orders, disclose any information in that form or register to anyone other than—

- (a) a designated employee in respect of his or her submitted form or an entry in the register in respect of that employee; or
- (b) another person who is permitted access in terms of subregulation (1) or to whom access is granted in accordance with subregulation (3).

(3) Any person, other than a person contemplated in subregulation (1), may only be given access to a submitted form or the register in terms of section 11 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

Conflict of interest

21. (1) In so far as conflict of interest relates to members of the SMS:

- (a) The Commission shall verify the interests disclosed.

- (b) If the Commission is of the opinion that an interest of a SMS employee disclosed in terms of regulation 18 conflicts or is likely to conflict with the execution of any official duty of that employee, it shall verify the information regarding that interest and refer the matter back to the relevant executive authority.
- (c) Upon the referral, the executive authority shall consult with the employee concerned on appropriate steps to remove the conflict of interest.
- (d) If the employee, after the consultation referred to in subregulation (1)(c), fails to take the appropriate steps to remove the conflict of interest, the executive authority shall instruct the relevant authority to take disciplinary action against the employee.
- (e) An executive authority shall, within 30 days after such referral, report to the Commission by—
 - (i) stating whether any steps were taken; and
 - (ii) if steps were taken, giving a description of those steps or providing reasons if no steps were taken.

(2) In so far as conflict of interest relates to designated employees who are not members of the SMS:

- (a) The head of department shall verify the interests disclosed.
- (b) If the head of department is of the opinion that an interest of such designated employee disclosed in terms of regulation 18 conflicts or is likely to conflict with the execution of any official duty of that employee, he or she shall consult the employee concerned and, where possible, take appropriate steps to remove the conflict of interest.

- (c) If the employee, after the consultation referred to in subregulation (2)(b), fails to take the appropriate steps to remove the conflict of interest, the head of department shall take disciplinary action against the employee.
- (d) A head of department shall no later than 31 August of each year report to the Minister on—
 - (i) the number of cases identified in terms of subregulation (2)(b);
 - (ii) whether any steps were taken;
 - (iii) if steps were taken, a description of those steps; and
 - (iv) if no steps were taken, reasons thereof.

Part 3***Anti-corruption and ethics management*****Anti-corruption and ethics functions**

22. A head of department shall—

- (a) analyse ethics and corruption risks as part of the department's system of risk management;
- (b) develop and implement an ethics management strategy that prevents and deters unethical conduct and acts of corruption;
- (c) establish a system that encourages and allows employees and citizens to report allegations of corruption and other unethical conduct, and such system shall provide for—
 - (i) confidentiality of reporting; and
 - (ii) the recording of all allegations of corruption and unethical conduct received through the system or systems;
- (d) establish an information system that—
 - (i) records all allegations of corruption and unethical conduct;
 - (ii) monitors the management of the allegations of corruption and unethical conduct;
 - (iii) identifies any systemic weaknesses and recurring risks; and
 - (iv) maintains records of the outcomes of the allegations of corruption and unethical conduct; and

- (e) refer allegations of corruption to the relevant law enforcement agency and investigate whether disciplinary steps must be taken against any employee of the department and if so, institute such disciplinary action.

Designation of ethics officers

23. (1) An executive authority shall designate such number of ethics officers as may be appropriate, for the department to—

- (a) promote integrity and ethical behaviour in the department;
- (b) advise employees on ethical matters;
- (c) identify and report unethical behaviour and corrupt activities to the head of department;
- (d) manage the financial disclosure system; and
- (e) manage the processes and systems relating to remunerative work performed by employees outside their employment in the relevant department.

(2) The head of department shall establish an ethics committee or designate an existing committee, chaired by a Deputy Director-General, to provide oversight on ethics management in the department.

Other remunerative work by employees

24. An application by an employee to perform remunerative work outside his or her department shall be in accordance with the process determined by the Minister and in the form issued by the Minister.