

**DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION  
DEPARTEMENT VAN STAATSDIENS EN ADMINISTRASIE**

No. R. 441

25 May 2001

**AMENDMENT OF PUBLIC SERVICE REGULATIONS, 2001**

The Minister for the Public Service and Administration has, under section 41 of the Public Service Act, 1994 (promulgated under Proclamation No. 103 of 1994), amended the Public Service Regulations, 2001 (promulgated under Government Notice R. 1 of 5 January 2001), as set out in the Schedule, with effect from 1 May 2001.

**SCHEDULE**

1. Regulation I A.1 of Chapter 1 is hereby amended by the substitution for the expression "III F.1 (b)" of the expression "III F.(b)".
2. The following regulation is hereby substituted for Regulation III J.4 of Chapter 1:  

**III J.4** The Minister shall determine the format in which the information referred to in regulation III J.3 is to be included in the annual report. The format for the first annual report under regulation III J.3 shall be determined before 1 April 2001, but may, pursuant to comments received, be re-determined before 30 June 2001. Any determination that amends or replaces the format for a financial year shall be made before the beginning of that financial year."
3. The following chapter is hereby substituted for Chapter 3 of the Public Service Regulations, 2001:

**"CHAPTER 3  
FINANCIAL DISCLOSURE OF  
MEMBERS OF THE SENIOR MANAGEMENT SERVICE**

**A. DEFINITIONS**

In this Chapter, unless the context indicates otherwise-

"designated *employee*" means any member of the SMS;

"register" means the Register of Designated Employees' Interests kept in terms of regulation B.(a) of this Chapter;

"registrable interests" means the financial interests listed in regulation D of this Chapter;

*“remuneration”* means receipt of benefits in cash or in kind;

*“submitted form”* means a form submitted by a designated employee in terms of regulation C of this Chapter, or any copy thereof.

**B. REGISTER AND FUNCTIONS OF DIRECTOR-GENERAL: OFFICE OF THE PUBLIC SERVICE COMMISSION**

The Director-General: Office of the Public Service Commission shall-

- (a) keep a register for the purposes of this Chapter, called the Register of Designated Employees' Interests, in a format approved by the Commission; and
- (b) perform such other functions in relation to the implementation of this Chapter as the Commission may require.

**C. DISCLOSURE OF DESIGNATED EMPLOYEES' INTERESTS**

- C.1 Every designated employee shall, not later than 30 April of each year, disclose to the relevant executing authority, on the form determined for this purpose by the Commission, particulars of all her or his registrable interests in respect of the period 1 April of the previous year to 31 March of the year in question.
- c.2 Any person who became a designated employee from 1 May 2001 only, shall make such disclosure in respect of the period 1 April 2000 to 31 March 2001, not later than 30 June 2001.
- c.3 Any person who assumes duty as a designated employee after 1 April in a year shall make such disclosure within 30 days after assumption of duty in respect of the period of 12 months preceding her or his assumption of duty.
- c.4 Every executing authority shall submit to the Commission a copy of the form submitted to the executing authority in terms of-
  - (a) regulation C.1 of this Chapter not later than 31 May of the year in question;
  - (b) regulation C.2 of this Chapter not later than 31 July 2001; or
  - (c) regulation C.3 of this Chapter not later than 30 days after it has been so submitted.

**D. KINDS OF INTERESTS TO BE DISCLOSED**

The following kinds of financial interests are registrable interests:

- (a) Shares and other financial interests in private or public companies and other corporate entities recognised by law;
- (b) directorships and partnerships;
- (c) remunerated work outside the public service;
- (d) consultancies and retainerships;
- (e) sponsorships;
- (f) gifts and hospitality from a source other than a family member; and

- (g) ownership and other interests in land and property, whether inside or outside the Republic.

## **E. DETAILS OF REGISTRABLE INTERESTS TO BE DISCLOSED**

The following details of registrable interests shall be disclosed:

- (a) Shares and other financial interests in 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 the name of the company; and
  - (ii) the nature and value of any other financial interests held in a private or public company or any other corporate entity and the name of the company or other corporate entity.
- (b) Directorships and partnerships:
  - (i) The name, and type of business activity, of the corporate entity or partnership; and
  - (ii) if applicable, the amount of any remuneration received for such directorship or partnership.
- (c) Remunerated work outside the public service:
  - (i) The type of work;
  - (ii) the name, and type of business activity, of the employer; and
  - (iii) the amount of the remuneration received for such work.
- (d) Consultancies and retainerships:
  - (i) The nature of the consultancy or retainership of any kind;
  - (ii) the name, and type of business activity, of the client concerned; and
  - (iii) the value of any benefits received for such consultancy or retainership.
- (e) Sponsorships:
  - (i) The source and description of direct financial sponsorship or assistance; and
  - (ii) the value of the sponsorship or assistance.
- (f) Gifts and hospitality from a source other than a family member:
  - (i) A description and the value and source of a gift with a value in excess of R350;
  - (ii) a description and the value of gifts from a single source which cumulatively exceed the value of R350 in the 12 month period contemplated in regulation C of this Chapter; and
  - (iii) hospitality intended as a gift in kind.

- (g) Ownership and other interests in land and property, whether inside or outside the Republic:
  - (i) A description and extent of the land or property;
  - (ii) the area in which it is situated; and
  - (iii) the value of the interest.

#### **F. CONFIDENTIALITY OF SUBMITTED FORMS AND REGISTER**

**F.1** Subject to regulation **F.3** of this Chapter only the following persons have access to a submitted form or the register:

- (a) The executing authority to whom the form is submitted and the staff designated by the executing authority for purposes of record-keeping of the original form and submission of a copy of the form to the Commission;
- (b) commissioners of the Commission;
- (c) the Director-General: Office of the Public Service Commission; and
- (d) such other persons designated by an executing authority or the chairperson of the Commission for purposes of the effective implementation of this Chapter.

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

**F.3** Any person, other than a person contemplated in regulation **F.1** of this Chapter, 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).

**F.4** Any employee who contravenes regulation **F.2** of this Chapter is guilty of misconduct.

#### **G. CONFLICT OF INTERESTS**

**G.1** If the Commission is of the opinion that a registrable interest of a designated employee disclosed in terms of regulation **C** of this Chapter 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 consult with the employee in question.

**G.2** If, after such verification and consultation, the Commission is of the opinion that there is such conflict or that such conflict is likely to occur, it shall refer the matter to the relevant executing authority.

**G.3** Upon the referral, the executing authority shall consult with the employee concerned and take the appropriate steps, including, but not limited to-

- (a) the institution of disciplinary action; or
- (b) the granting of a waiver to the employee in respect of a future conflict of interest.

**G.4** An executing authority shall, within 30 **days** after **such** referral, report **to** the Commission by-

- (a) stating whether any steps were taken; and
- (b) if steps were taken, giving a description of those steps or, if no steps were taken, giving the reasons therefor.

**H. FAILURE TO DISCLOSE INTERESTS**

Any designated employee who-

- (a) fails to disclose an interest in terms of regulation C of this Chapter; or
  - (b) when disclosing an interest in terms of regulation C of this Chapter, wilfully provides incorrect or misleading details,
- is guilty of misconduct.”.

4. Annexure 1 is hereby amended by the substitution in paragraph 6 for the expression “4” of the expression “5”.

5. Annexure 2 is hereby amended-

- (a) by the substitution in clause 1.2.5 of the employment contract in Part 1 for the expression “Public Service Regulations, 1999” of the expression “Public Service Regulations, 2001”;
- (b) by the substitution in clause 1.1 of the employment contract in Part 2 for the expression “Public Service Regulations, 1999” of the expression “Public Service Regulations, 2001”; and
- (c) by the substitution in clause 1.1 of the employment contract in Part 3 for the expression “Public Service Regulations, 1999” of the expression “Public Service Regulations, 2001”.