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GENERAL NOTICE

No. R. 310

DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION

AMENDMENT OF PUBLIC SERVICE REGULATIONS, 1999;

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, 1999, published in Government Notice No.679 of 1 July 1999, as set out in the Schedule, with effect from 1 April 2000.

SCHEDULE

1. The Table of Contents of the Public Service Regulations, 1999, is hereby amended by the insertion before the expression "Annexure 1" of the following:

"CHAPTER 3

FINANCIAL DISCLOSURE BY HEADS OF DEPARTMENTS AND CERTAIN OTHER EMPLOYEES

- A. Definitions
 - B. Register and functions of Director-General: Office of Public Service Commission
 - C. Disclosure of designated employees' interests
 - D. Kinds of interests to be disclosed
 - E. Details of registrable interests to be disclosed
 - F. Confidentiality of submitted forms and register
 - G. Conflict of interests
 - H. Failure to disclose interests".
2. The Public Service Regulations, 1999, are hereby amended by the insertion after Chapter 2 of the following chapter:

"CHAPTER 3

FINANCIAL DISCLOSURE OF HEADS OF DEPARTMENTS AND CERTAIN OTHER EMPLOYEES

A. DEFINITIONS

In this Chapter, unless the context indicates otherwise—

"designated employee" means—

- a. the incumbent of a post mentioned in the second column of Schedule 1, 2 or 3 to the Act; or
- b. any other person—
 - i. occupying a post on grade 15 in a national department, organisational component, provincial administration or provincial department; or
 - ii. in terms of section 36(3) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), approved or instructed by the relevant treasury to be the accounting officer of a national department, organisational component, provincial administration or provincial department;

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

"registrable interest" 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 to the relevant executing authority in terms of regulation C.1 or C.2 of this Chapter, or any copy thereof.

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

The Director-General: Office of the Public Service Commission must—

- 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 must, 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 assumes duty as a designated employee after 1 April in a year must 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.3 Every executing authority must 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; or
- b. regulation C.2 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 must 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;
 - ii. the name of that company; and
 - iii. the nature and value of any other financial interests held in a private or public company or any other corporate entity.
- b. Directorships and partnerships:

- i. The name, and type of business activity, of the corporate entity or partnership; and
 - ii. 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 any 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.1 or C.2; 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 purpose 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 in this Chapter or to whom access is granted in accordance with regulation F.3 of this Chapter.

F.3 a. 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).

- b. Until the commencement of section 11 of the Promotion of Access to Information

Act, 2000, a request for access to a submitted form or the register must be made to the Director-General: Office of the Public Service Commission.

- c. The Director-General: Office of the Public Service Commission may only grant that request if—
 - i. the person making the request requires access for the protection or exercise of any right of that person; or
 - ii. there is a compelling public interest in its disclosure.

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 conflicts or is likely to conflict with the execution of any official duty of that employee, it must 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 such conflict is likely to take place, it must refer the matter to the relevant executing authority.

G.3 Upon the referral, the executing authority must 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 must, 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's.