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Department:

Telecommunications and Postal Services

**REPUBLIC OF SOUTH AFRICA**

DEPARTMENT OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES

# **POLICY ON FINANCIAL DISCLOSURES FOR SENIOR MANAGEMENT- AND OTHER DESIGNATED EMPLOYEES**

**ABSTRACT:**

This document describes an activity or set of activities which must be undertaken in order for a particular procedure to be completed. This is a ~~high-level~~high-level document intended to provide an overview.

Action taken	Designation	Initials and Surname	Signature	Date
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Approved:	<b>Acting Director-General</b>	<del>Mr RD Nkuna</del> Ms M <del>Jordan-Dyani</del>		

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## **Policy on Financial Disclosures**

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## 1. Introduction

- 1.1. Government is committed to promote accountability in the Public Service. In terms of Section 196(4) (1) read with Section 195(1) (f) of the Constitution, the Public Service Commission is responsible to promote accountability within the Public Service.
- 1.2. Chapter 2, Part 2 of the Public Service Regulations, 2016, Regulation 18 stipulates that every designated employee shall, not later than 30 April of each year, disclose to the relevant authority, on the forms 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. After verification, the executive authority shall submit the disclosure to the Public Service Commission not later than 30 May of the year in question.
- 1.3. The executive authority may designate staff to submit a copy of the disclosures to the Public Service Commission on his/her behalf. In order to facilitate the online submission of the disclosure to the Public Service Commission, the executive authority must designate officials to conduct the verification and ensure that all Senior Management- (SMS) and other designated employees fully comply.

## 2. Purpose

- 2.1. The purpose of the policy is to:

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- 2.1.1. Regulate the submission of financial disclosures by SMS- and other designated employees on an annual basis;
- 2.1.2. Identify any conflict of interests in order to promote just and fair administrative actions of officials in senior- and other designated positions and thereby to protect the public service from actions that may be detrimental to its functioning that may constitute unlawful administrative actions as a result of ulterior motives. In general, it aims to promote an open and accountable government and the lawful use of taxpayers' money and therefore the principles and values as stated in section 195(1) of the Constitution.
- 2.1.3. Assist SMS- and other designated employees with a mechanism to enable them to disclose their financial interests and thereby places a duty on the employer i.e executing authority to satisfy him/herself that the employee's financial interests will not negatively impact on the execution of his/her official duties.

### **3. Policy Objectives**

3.1. The objectives of the policy are:

- 3.1.1. To adhere to the prescripts as stated in the Public Service Regulations and the Determination on other categories of designated employees to disclose their financial interests issued by the Minister for Public Service and Administration.

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- 3.1.2. To set, promote and maintain a high standard of professional ethics.
- 3.1.3. To create awareness with SMS- and other designated employees regarding the obligation to disclose their financial interests.
- 3.1.4. To enable the Public Service Commission to fulfil its function of verifying disclosed information.

#### **4. Scope**

4.1. This policy shall apply to:

- 4.1.1. All SMS employees in the Department who are appointed in accordance with the Public Service Act, 1994, as amended.
- 4.1.2. Any other person in terms of section 36(3) of the Public Finance Management Act, 1999, as amended approved or instructed by the relevant treasury to be the accounting officer of a department.
- 4.1.3. Any other employee or category of employees determined by the Minister of Public Service and Administration.

#### **5. Definitions and Abbreviations**

5.1. This policy shall be read in conjunction with the Public Service Act, 1994, as amended, the Public Service Regulations, 2016 and all other Public Service directives, collective agreements and departmental policies and procedures.

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5.2. In this policy, unless the context ~~indicate~~indicates otherwise, the below listed terms shall carry the meaning assigned as follows:

Department / ~~DTPSD~~CDT: Department of ~~Telecommunications and Postal Services~~Communications and Digital Technologies.

Designated employee: All members appointed in the Snr Management Echelon of the Department.

Any other person in terms of section 36(3) of the Public Finance Management Act, 1999, as amended approved or instructed by the relevant treasury to be the accounting officer of a department.

Any other employee or category of employees determined by the Minister of Public Service and Administration i.e

- a. Employees earning the equivalent of salary level 13 and above through the Occupation Specific Dispensation (OSD);
- b. Employees appointed at salary levels 11 and 12 including employees earning the equivalent of salary levels 11 and 12 through the OSD;

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**Policy on Financial Disclosures**

- c. Employees employed in supply chain management units irrespective of their salary level;
- d. Employees employed in finance units irrespective of their salary level;
- e. Any employee who is authorised by the MPSA, Executive Authority, Head of the Department (HOD) or the chairperson of the Public Service Commission (PSC) for purposes of record keeping and the effective implementation of Part 2 of Chapter 2 of the Public Service Regulations, 2016, irrespective of their salary level. This category includes ethics officers, officials with delegated authority on the eDisclosure system and officials who perform verification functions.

SMS: An employee of the Senior Management Service

Employer: The Department of ~~Telecommunications and Postal Services~~ Communications and Digital Technologies.

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Form:	Means a printed or electronic form as contemplated in Regulation 18 of the Public Service Regulations
Interests:	Means the financial or business interests listed in Regulation 19 of the Public Service Regulations.
Commission:	The Public Service Commission (PSC).
Policy:	Refers to the Department's intent regarding a particular process.
DPSA:	Department of Public Service and Administration.
Act	Public Service Act, 1994, as amended.
Executive authority:	Minister of Department of <u>TeleC</u> ommunications and <u>Digital TechnologiesPostal Services</u>
Head of department:	Director-General of Department of <u>Telecommunications</u> and <u>Postal ServicesCommunications and Digital Technologies</u>

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Minister: Minister of Department of Public Service and Administration

## **6. Legislation and guidelines/Legislative framework**

**6.1.** The relevant legislation and guidelines to this policy are:

- 6.1.1. Public Service Act, 1994 (as amended) – applicable to employees appointed in terms of the Public Service Act.
- 6.1.2. Public Service Regulations, 2016 – Regulation 16 to Regulation 21.
- 6.1.3. Constitution of the Republic of South Africa, 1996 – Section 196(4) (1) read with Section 195(1) (f).
- 6.1.4. Basic Conditions of Employment Act, 1997 (Act 74 of 1997) – Contracts of Employment specifying the obligation to disclose financial interests.
- 6.1.5. Public Finance Management Act, 1999 (as amended) - section 36(3).
- 6.1.6. Snr Management Service (SMS) Handbook – Chapter 9.
- 6.1.7. Determination on other categories of designated employees to disclose their Financial Interests issued by the Minister for Public Service and Administration.

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## 7. Policy Provisions

### 7.1. Disclosure of interests

- 7.1.1. SMS/designated employees are individually responsible to ensure that all interests as specified in paragraph 7.3 below are fully disclosed and that the necessary documentary proof is attached where required.
- 7.1.2. SMS employees, except for the 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 of Public Service and Administration, particulars of all his/her interest in respect of the period 1 April of the previous year to 31 March of the year in question.
- 7.1.3. The 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/her interests in respect of the period 1 April of the previous year to 31 March of the year in question.
- 7.1.4. Any other designated employee not contemplated in sub-paragraph (1) and (2), as identified by the Minister, shall submit to the relevant head of department, on a date and form directed by the Minister, particulars of all his/her interests for the period as may be directed by the Minister.
- 7.1.5. Any person who assumes duty as a designated employee on or after 1 April in a year, shall ensure disclosure within 30 days after assumption of duty in respect of the period from 1 April to date.

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- 7.1.6. The head of department or executive authority, as the case may be, shall ensure that the disclosure of interests by the designated employees is submitted electronically to the Commission or the relevant authority as may be directed by the Minister.
- 7.1.7. The executive authority shall submit to the Commission a copy of the form in respect of the head of department, not later than 31 May of the year in question, or not later than 30 days after it has been submitted.
- 7.1.8. The head of department shall submit to the Commission a copy of the form submitted to him/her by a member of the SMS/designated employee not later than 31 May of each year in question, or not later than 30 days after it has been submitted.

## **7.2. Register of designated employees' interests**

- 7.2.1. The Director-General: Office of the Commission shall keep a register of designated employees' interests, who are members of the SMS.
- 7.2.2. The head of department shall keep a register of any other designated employees' interests who have been identified by the Minister of Public Service and Administration.

## **7.3. Details of interests to be disclosed**

**The following details of interests shall be disclosed:**

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**7.3.1. Shares, loan accounts or any other form of equity in a registered private or public companies and other corporate entities recognised by law:**

7.3.1.1. The number, nature and nominal value of shares of any type in any public or private company and its name; and

7.3.1.2. 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.

**7.3.2. Income-generating assets:**

7.3.2.1. A description of the income-generating asset;

7.3.2.2. The nature of the income; and.

7.3.2.3. The amount or value of income received.

**7.3.3. Trusts**

7.3.3.1. 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.

7.3.3.2. The purpose of the trust, and the interest or role in the trust by the designated employee; and

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7.3.3.3. The benefits or remuneration received (these include fees charged for services rendered).

**7.3.4. Directorships and partnerships**

7.3.4.1. The name, type and nature of business activity of the corporate entity or partnership; and

7.3.4.2. If applicable, the amount of any remuneration received for such directorship or partnership.

**7.3.5. Remunerated work outside the employee's employment in her or his department**

7.3.5.1. The type of work;

7.3.5.2. The name, type and nature of business activity of the employer;

7.3.5.3. The amount of the remuneration received for such work; and

7.3.5.4. Proof of compliance with section 30 of the Act must be attached.

**7.3.6. Consultancies and retainerships:**

7.3.6.1. The nature of the consultancy or retainerhip of any kind;

7.3.6.2. The name, type and nature of business activity of the client concerned; and

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7.3.6.3. The value of any benefits received for such consultancy or retainership.

**7.3.7. Sponsorships:**

7.3.7.1. The source and description of direct financial sponsorship or assistance;

7.3.7.2. The relationship between the sponsor and the department; and

7.3.7.3. The value of the sponsorship or assistance.

**7.3.8. Gifts and hospitality from a source, other than a family member (Also read in conjunction with the Gift Policy of the Department):**

7.3.8.1. A description, value and source of a gift;

7.3.8.2. The relationship between the giver and the employee;

7.3.8.3. The relationship between the giver and the department; and

7.3.8.4. A description and the value of any hospitality intended as a gift in kind.

**7.3.9. Ownership and other interests in immovable property:**

7.3.9.1. A description and extent of the land or property;

7.3.9.2. The area in which it is situated;

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- 7.3.9.3. The purchase price, date of purchase and the outstanding bond on the property; and
- 7.3.9.4. The estimated market value of the property.

**7.3.10. Vehicles**

- 7.3.10.1. A description (make and model) of the vehicle;
- 7.3.10.2. The registration number of the vehicle; and
- 7.3.10.3. The purchase price and the outstanding amount owing on the vehicle.

**7.4. Confidentiality of submitted forms and register**

- 7.4.1. Only the following persons will have access to a submitted form or the register:
  - 7.4.1.1. The Minister of Public Service and Administration;
  - 7.4.1.2. The executive authority to whom the form is submitted;
  - 7.4.1.3. The head of department to whom the form is submitted;
  - 7.4.1.4. Commissioners of the Commission;

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- 7.4.1.5. The Director-General: Office of the Public Service Commission;
- 7.4.1.6. The Director-General: Public Service and Administration;
- 7.4.1.7. The relevant designated ethics officer as appointed by the executive authority; and
- 7.4.1.8. Such other persons designated by the Minister, the executive authority, head of department or the chairperson of the Commission for purposes of record keeping and the effective implementation of the process.

7.4.2. 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 –

- 7.4.2.1. A designated employee in respect of his or her submitted form or an entry in the register in respect of that employee; or
- 7.4.2.2. Another person who is permitted access or to whom access is granted.
- 7.4.2.3. Any other person 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).

### 7.5. Conflict of interest

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7.5.1. In so far as conflict of interest relates to members of the SMS:

7.5.1.1. The Commission shall verify the interests disclosed.

7.5.1.2. If the Commission is of the opinion that an interest of a SMS employee disclosed, 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.

7.5.1.3. Upon referral, the executive authority shall consult with the employee concerned on appropriate steps to remove the conflict of interest.

7.5.1.4. If the employee, after consultation, 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.

7.5.1.5. The executive authority shall, within 30 days after such referral, report to the Commission by –

7.5.1.5.1. Stating whether any steps were taken; and

7.5.1.5.2. If steps were taken, giving a description of those steps or providing reasons if no steps were taken.

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7.5.2. In so far conflict of interest relates to designated employees who are not members of the SMS:

7.5.2.1. The head of department shall verify the interests disclosed.

7.5.2.2. If the head of department is of the opinion that an interest of such designated employee disclosed, 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.

7.5.2.3. If the employee, after the consultation, fails to take the appropriate steps to remove the conflict of interest, the head of department shall take disciplinary action against the employee.

7.5.2.4. The head of department shall no later than 31 August of each year report to the Minister on –

7.5.2.4.1. The number of cases identified;

7.5.2.4.2. Whether any steps were taken;

7.5.2.4.3. If steps were taken, a description of those steps; and

7.5.2.4.4. If no steps were taken, reasons thereof.

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## **8. Monitoring**

**8.1.** This policy will be monitored by programme managers on a daily basis.

## **9. Enforcement/Policy Violation**

**9.1.** Any violation of this policy will lead to the institution of disciplinary steps against the SMS employee / other designated employee.

## **10. Review/Policy review**

**10.1.** This policy shall be reviewed every two years or revised and amended when necessary.

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