

CODE OF CONDUCT IN REGARD TO FINANCIAL INTERESTS

**(as adopted by the Joint Meeting of the Rules Committees
on 21 May 1996)**

1 INTRODUCTION

- 1.1 In order to achieve a political order in South Africa that is truly open, transparent and accountable, as is envisaged in the Constitution, it is essential that its elected leaders maintain the highest standards of propriety to ensure that their integrity and that of the political institutions in which they serve are beyond question.
- 1.2 In general, no person bound by this Code must place himself or herself in a position which conflicts with his or her responsibilities as a public representative in Parliament nor may he or she take any improper benefit, profit or advantage from the office of Member.
- 1.3 This Code seeks to achieve this purpose in regard to the financial interests of Members of Parliament. It has been drawn up after extensive debate among all parties represented in Parliament, and has been adopted by resolution of the Rules Committees of the Senate and National Assembly, meeting in joint session in Parliament on 21 May, 1996.
- 1.4 No set of rules can bind effectively those who are not willing to observe their spirit, nor can any rule of law foresee all possible eventualities which may arise or be devised by human ingenuity. This Code of Conduct has been formulated in as simple and direct a manner as possible. Its success depends both first and last on the integrity and good sense of those to whom it applies. Therefore, where any doubt exists as to scope, application or meaning of any aspect of this Code, the good faith of the member concerned must be the guiding principle.

2 APPLICATION

- 2.1 This Code applies to all persons who are entitled to be present and participate in the proceedings of Parliament.
- 2.2 This Code applies also to any spouse, permanent companion or dependant child of any Member to whom the Code applies, to the extent that the Member is aware of and entitled to disclose any registrable interest held by such a person, provided that disclosure in regard to such persons must appear in the Confidential Part of the Register.

- 2.2 Any person who is publicly acknowledged by a Member as a companion” must be regarded as a “permanent companion” for the purposes of this Code.

3 REGISTRATION AND PUBLICATION OF MEMBERS’ INTERESTS

A Joint Committee, to be known as the Committee on Members’ Interests (hereafter “the Committee”) must be established and must meet within twenty days of the approval of this Code.

- 3.1 The majority party in the National Assembly must have one representative more than the combined total of representatives of all other parties on the Committee.
- 3.1.2 Each member of the Committee must swear or affirm before the Presiding Officers that he or she will comply with the requirements of confidentiality where applicable.
- 3.1.3 The Committee must elect a Chairperson and Deputy Chairperson from among its members at its first meeting, who must fulfill the duties associated with their offices in the manner prescribed for Chairpersons of Committees of the National Assembly, but are not entitled to the normal financial benefits of such office.
- 3.1.4 The Committee is quorate if half its members plus one are present at any meeting, and must meet from time to time, but at least monthly during Parliamentary sessions.
- 3.1.5 The Committee has the following functions:
- 3.1.5.1 the overall supervision of the compilation and publication of the Register of Members’ Interests (see para 3.2 below);
 - 3.1.5.2 the determination of any complaints in regard to the disclosure of Members’ Interests,
 - 3.1.5.3 the recommendation of any sanctions to be imposed on Members for contravention of any aspect of this Code;
 - 3.1.5.4 the interpretation of and the giving of advice in regard to the operation of this Code either generally or upon request by a Member;
 - 3.1.5.5 the reporting on the operation of this Code to Parliament, as the occasion demands but at least annually; and
 - 3.1.5.6 any other functions reasonably required for the effective administration of

this Code.

- 3.1.6 In discharging its functions, the Committee has the power to summon any person to appear or to produce documentary evidence before it and to answer questions put to him or her.
- 3.1.7 The Committee must be served by a senior official on the staff of Parliament, to be known as the Registrar of Members' Interests (hereafter "the Registrar"), appointed by the Presiding Officers after consultation with all the political parties represented in Parliament.
- 3.1.7.1 The Registrar, and such support staff as may be approved -
- 3.1.7.1.1 must make all arrangements in regard to meetings of the Committee, on instruction from the Chairperson;
 - 3.1.7.1.2 must open, compile and keep safe and up to date the Register of Members' Interests and must not divulge any information in the Confidential Part of the Register improperly;
 - 3.1.7.1.3 must carry out all other administrative duties in regard to this Code and as required by the Committee from time to time, including the giving of advice to Members as to the operation of the Code, and
 - 3.1.7.1.4 must at all times display the highest level of integrity and impartiality in the execution of his or her duties.
- 3.2 A register, to be known as the Register of Members' Interests (hereafter "the Register") must be opened within thirty days of the adoption of this Code.
- 3.2.1 All registrable interests, as described in Section 4 of this Code, must be entered in the Register in the manner prescribed by the Committee from time to time.
 - 3.2.2 Without detracting from the discretion of the Committee as to the form of disclosure of registrable interests, all Members must in the prescribed manner -
 - 3.2.2.1 make their initial disclosure in the Register within thirty days of the opening of the Register or their election to Parliament, provided that initial disclosure must reflect registrable interests as at the date of such disclosure, including all gifts and hospitality received from the date of the adoption of this Code by the Joint Meeting of the Rules Committees of Parliament; and

3.2.2.2 update their entries at annual intervals thereafter, with the exception of the receipt of gifts or hospitality, which must be entered by the end of every second month in each calendar year.

3.2.3 The Register must be in two parts, a Confidential and a Public Part.

3.2.3.1 Registrable interests described as “confidential” in this Code or those deemed “confidential” for good cause by the Committee must be entered in the Confidential Part.

3.2.3.2 All other registrable interests must be entered in the Public Part of the Register.

3.2.4 The Confidential Part of the Register must lie open for inspection by any member of the Committee in the office of the Registrar during normal working hours, provided that no information contained in the Confidential Part may be disclosed to anyone other than a member of the Committee, and provided further that, if any member of the Committee is found to have breached such confidentiality, he or she will be liable to a reduction of up to thirty days’ salary and will be ineligible to serve on the Committee after that.

3.2.5 The Public Part of the Register must lie open in the office of the Registrar for inspection by any person during prescribed hours of each normal working day, provided that the Public Part of the Register must be published for general distribution sixty days after the opening of the Register and on 1 April of each year after that.

3.2.6 The Committee must investigate and implement the means for the widest possible dissemination of the information contained in the Public Part of the Register’, including the use of computer and other electronic technology-

4 REGISTRABLE INTERESTS

4.1 All financial interests of the type stipulated below must be disclosed by every person bound directly by this Code and included in the Register. Such interests are “registrable interests” in terms of this Code.

4.2 In addition, whenever a Member has a direct and specific pecuniary interest in a matter being debated or voted on in any Parliamentary forum or is making representations to a Minister of government, governmental department or parastatal organisation, he or she must declare such an interest and must not participate in any such debate, vote or representation after such declaration.

4.3 The following categories of registrable interest must be disclosed separately

4.3.1 Shares and other Financial Interests: the number, nature, nominal value and company in which held of any type of shares in any public or private company, provided that financial interests held in any other corporate body recognised by law must be disclosed in the Confidential Part of the Register;

4.3.2 Remunerated employment outside Parliament: the employment for remuneration and the name and type of business activity of the employer of any Member outside Parliament, which must be sanctioned by the political party to which the Member concerned belongs and which must not be incompatible with that Member's function as an elected public representative, provided that the extent of such remuneration must be disclosed in the Confidential Part of the Register;

4.3.3 Directorships and Partnerships: the holding of office of director in any corporate body and the membership of any partnership recognised by law and the name and type of business activity of the corporate body or partnership where the receipt of remuneration is a consequence of or associated with holding such office or being such a member, provided that the extent of such remuneration must be disclosed in the Confidential Part of the Register;

4.3.4 Consultancies: the holding of a consultancy or retainership of any kind, the name and type of business activity of the organisation concerned, and the value of any benefits derived as a result;

4.3.5 Sponsorship: the source, description and extent of the provision of financial sponsorships or assistance directly to a Member from non-party sources;

4.3.6 Gifts and Hospitality: the receipt, description, value and solicitor of any gift with a value in excess of R350 or gifts from a single source which cumulatively exceed the value of R350 in any calendar year or hospitality intended as a gift in kind, including such gifts and hospitality from an external source to a spouse, permanent companion or dependant child of a Member, provided that personal gifts within the family and hospitality of a specifically traditional or cultural nature need not be disclosed;

4.3.7 Benefits: the receipt and source of any other benefit of a material nature, provided that the value of such benefit must be disclosed in the Confidential Part of the Register;

4.3.8 Foreign Travel: the undertaking of all travel abroad (including a brief description of the journey and sponsor), other than personal visits paid for entirely

by the Member himself or herself, business visits unrelated to the Member's role as a public representative, or formal visits paid for by the Member's political party, provided that a registrable visit may be entered in the Confidential Part of the Register where its nature so requires.'

4.3.9 Land and Property: any interest in immovable property, wherever situated, including private residences, vacation homes and any other landholding, provided that only the description, area in which situated and extent of the property need be disclosed and that such details in respect of private residences only may be entered in the Confidential Part of the register, and

4.3.10 Pensions: the receipt and source of a pension of any description, whether funded privately or publicly, provided that the value must be disclosed in the Confidential Part of the Register.

- 4.4 Where any doubt or discretion exists in respect of the registrability of a financial interest, the Member concerned must act at all times in good faith.

5 ENFORCEMENT OF THE CODE

- 5.1 The Committee, acting on its own or on a complaint by any person through the office of the Registrar, must investigate with due expedition any alleged irregularity in regard to the disclosure of financial interests of Members registrable in terms of this Code,
- 5.2 The Committee may adopt whatever procedures it deems reasonable in justice and fairness (including a consideration of any expenses incurred) in conducting its investigations, but must hear at least the complainant and the Member in respect of whom the complaint is lodged, which hearing must be in closed session unless the Committee decides otherwise.
- 5.3 The Committee must make a full and considered finding supported by reasons on the validity of any complaint at the conclusion of its investigations, which it must make public, together with any sanction to be imposed', and must, if the hearing was in closed session, also supply an adequate summary of the facts.
- 5.4 The Committee must at the same time recommend the imposition of one or more of the following penalties where it has found that a Member has contravened this Code: a reprimand; a fine; a reduction of salary or allowances; the suspension of privileges or a Member's right to take his or her seat in Parliamentary debates or committees, provided that the amount of any such fine or reduction may not exceed the value of thirty days' salary, nor may such period of suspension exceed fifteen days at a time.

- 5.5 The Committee must report its findings and recommendations as to penalties, if any, within 30 days of the lodging of a complaint, to the appropriate House of Parliament, which must confirm or vary any such report preferably by a free vote, or refer the matter back to the Committee for further consideration.
- 5.6 Once the appropriate House has confirmed the Committee's report, the Speaker or the President of the Senate/Chairperson of the National Council of Provinces must act on such decision with due expedition.

6 MISCELLANEOUS PROVISIONS

- 6.1 Lobbying for remuneration by any Member is prohibited.
- 6.2 A reference to "remuneration" in this Code means the receipt of benefits in cash or in kind.
- 6.3 A provision of this Code may be amended or repealed by resolution of both Houses of Parliament.
- 6.3.1 In particular, the value at which gifts or hospitality become registrable in terms of rule 4.3.6 may be adjusted to reflect changing monetary values,
- 6.4 The provisions and implementation of this Code must be reviewed by the Committee one year after coming into operation, and at least annually after that.

ENDS