

RESTRICTED**POLICY ON FINANCIAL DISCLOSURE AND PERFORMANCE OF REMUNERATIVE WORK OUTSIDE EMPLOYMENT IN THE DEPARTMENT OF CORRECTIONAL SERVICES****1. EXECUTIVE SUMMARY**

- 1.1 Section 30 of the Public Service Act, 1994, provides that every government employee shall place the whole of his or her time at the disposal of the State. No officer or employee shall perform or engage him or herself to perform remunerative work outside his or her employment in the Public Service without permission granted by the relevant executing authority or an officer authorised by the said authority.
- 1.2 Section 31 of the Act further stipulates that if an officer receives any remuneration, allowance or other reward, otherwise than in accordance with this act, an amount equal to such remuneration, allowance, or reward received shall be paid into the revenue account.
- 1.3 In terms of the Public Service Act, 1994 read with Chapter 3 paragraph C.1 of the Public Service Regulations, 2001 all designated employees or officials occupying a post at SMS level (level 13 and upwards), must disclose their registrable interests to the executing authority of their respective departments not later than 30 April of each year. Such disclosures must be submitted to the Director General of the Public Service Commission who in turn should keep a register of such interests.
- 1.4 This policy seeks to ensure compliance with the abovementioned provisions of the Public Service Act and the Public Service Regulations within the Department.

2. DEFINITION OF TERMS

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- 2.1 Designated employee means a member of the senior management occupying a post at salary level 13 and upwards or an SMS member as referred to in the Public Service Regulations.
- 2.2 Non-designated employee means an official who is occupying a position at salary level 12 and below.
- 2.3 Remuneration means the receipt of benefits in cash or in kind.
- 2.4 Work means rendering a service for which the official receives remuneration.
- 2.5 Executing authority is a generic Public Service term which refers to a minister of a department and in the context of this policy it refers to the Minister of the Department of Correctional Services.

3. BACKGROUND

- 3.1 Since the coming into operation of the Public Service Act, 1994 and the Public Service Regulations, 2001 the Department of Correctional Services has been operating without its own fully fledged policy framework aimed at regulating financial disclosures by SMS members and the performance of remunerative work outside its employment as a Public Service institution. This situation led to a lack of uniform and common understanding of the Act and Regulations with the result that the provisions thereof could not be properly implemented and monitored.

4. POLICY MANDATE**4.1 Constitution**

- Section 195 (1) (a) of the constitution stipulates that a high standard of professional ethics must be promoted and maintained in the Public Service.

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- Section 30 (b) of the Public Service Act stipulates that no officer or employee shall perform or engage him or herself to perform remunerative work outside his or her employment in the Public Service without permission granted by the relevant executing authority or an officer authorised by the said authority.

4.3 Public Service Regulations, 2001

- Chapter 3 paragraph C.1 of the Public Service Regulations, 2001 stipulates that every designated employee must disclose particulars of his / her registrable interests to the executive authority of his / her department, in respect of the period 1 April of the previous year to 31 March of the year in question, not later than 30 April of each year.

4.4 White Paper on Corrections

- Chapter 8 Item 8.2.2 of the White Paper on Corrections stipulates that an ideal correctional official should be a person who finds affinity with and identifies with the Code of Ethics and Conduct adopted by the Department.

5. POLICY STATEMENT

- 5.1 The Department of Correctional Services is currently having no approved policy which seeks to provide guidelines on financial disclosure by SMS members and the performance of remunerative work outside its employment as a Public Service department. This makes it difficult for the Department to ensure the implementation of the provisions of section 30 and 31 of the Public Service Act, 1994 and the Public Service Regulations, 2001. This policy therefore seeks to give effect to section 30 and 31 of the Public Service Act read with Chapter 3 paragraph C .1 of the Public Service Regulations which regulate the performance

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of remunerative work outside employment in the Public Service and financial disclosures, respectively.

6. POLICY OBJECTIVES

6.1 The objectives of this policy are as follows:

- To provide guidelines and control measures with regard to performance of remunerative work outside employment in the Department as well as financial disclosures.
- To ensure compliance with the provisions of Section 30 and 31 of the Public Service Act, 1994 read with Chapter 3 paragraph C.1 of the Public Service Regulations 2001 as referred to above.
- To cultivate a high standard of professional ethics within the Department as well as the prevention of fraud and corruption.

7. POLICY PRINCIPLES

7.1 The following principles underpin this policy:

- A high standard of professional ethics must be cultivated and maintained within the Public Service.
- As public servants the officials of the Department must prevent any conflict between their own private interests and those of the Department as a Public institution.
- As people charged with the duty of rehabilitation correctional officials must set an example to offenders and the public at large by conducting themselves with integrity and complying with all Government policies and legislation.

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- 7.2 All Government employees must comply with section 30 of the Public Service Act and the Public Service Regulations as referred to above. All officials of the Department, irrespective of rank, are therefore bound by the provisions of this legislation.
- 7.3 Approval for the performance of remunerative work outside employment in the Department shall only be granted by the Minister or an official to whom such authority has been duly delegated.

8. POLICY IMPLEMENTATION

- 8.1 Every line manager shall be responsible for the effective implementation of the policy.
- 8.2 The Director Human Resource Utilisation and Administration shall develop procedural guidelines and also ensure that monitoring and evaluation mechanisms are in place to ensure the proper implementation of the policy.
- 8.3 The Director Human Resource Utilisation and Administration shall also ensure that a reliable database is kept in respect of all approved applications for the performance of remunerative work outside the employment in the Department.
- 8.4 The Regional Head Corporate Services shall, in consultation with the Regional Management, be responsible for the co-ordination of the proper implementation and monitoring of the policy within the Region.
- 8.5 The Area Coordinator Corporate Services shall, in consultation with the Area Commissioner, monitor the proper implementation of the policy in all Correctional Centres and offices within the Management Area.

9. POLICY MONITORING

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9.1 The Directorate Human Resource Utilisation and Administration shall develop mechanisms to monitor the proper implementation of the policy.

9.2 The Regional Heads Corporate Services shall be responsible for ensuring that the monitoring mechanisms are implemented within their respective regions whilst Area Coordinators Corporate Services shall ensure this at area level.

10. POLICY EVALUATION

10.1 The Directorate Human Resource Utilisation and Administration shall be responsible for developing mechanisms for the evaluation of the effectiveness of the policy to ensure that any shortcomings are addressed in time.

11. POLICY REVIEW

11.1 The policy shall be reviewed as a need arises to ensure alignment thereof with national policy developments and to address the gaps identified during the policy evaluation process.

12. LEGAL IMPLICATION

12.1 This policy shall be a legal document aimed at regulating the performance of remunerative work outside employment in the Department as well as financial disclosure. Compliance with the policy is mandatory to officials at all levels in the Department of Correctional Services, except for financial disclosures or declaration of interest which are only applicable to SMS members.

12.2 However, in order to comply with the principles of the Public Finance Management Act 1 of 1999 financial disclosures or declaration of interests shall be applicable to the category of non-designated employees within the supply chain management who are dealing with tender adjudication including other officials to whom the authority for the approval of the procurement and / or provision of

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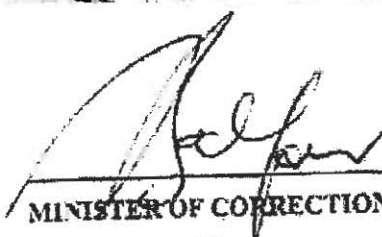
goods and services to the department, has been delegated as well as other categories of officials as may be reasonably deemed fit by the Minister or the National Commissioner.

12.3 Non-compliance with the policy by any official shall constitute misconduct which will result in disciplinary actions being instituted against such official. Recovery of any remuneration, allowance or reward received otherwise than in accordance with the provisions of Section 30 shall be effected in terms of the provisions of Section 31 of the Public Service Act.

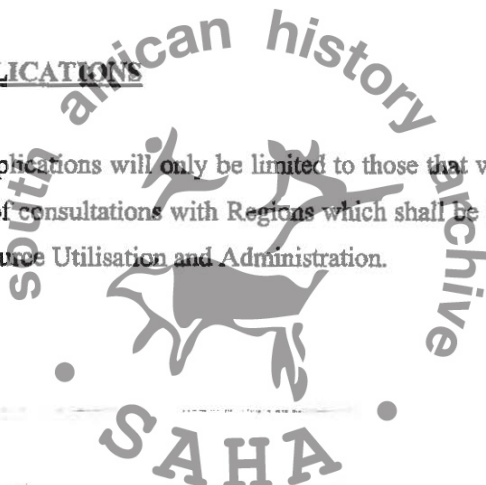
13. **FINANCIAL IMPLICATIONS**

13.1 Financial implications will only be limited to those that would be incurred during the process of consultations with Regions which shall be borne by the Directorate Human Resource Utilisation and Administration.

Approved



MINISTER OF CORRECTIONAL SERVICES
BMN BALFOUR



PROCEDURE MANUAL ON FINANCIAL DISCLOSURE AND THE PERFORMANCE OF REMUNERATIVE WORK OUTSIDE EMPLOYMENT IN THE PUBLIC SERVICE BY EMPLOYEES OF THE DEPARTMENT OF CORRECTIONAL SERVICES

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PAR. NO.	CONTENT / PROVISIONS	REFERENCE
1.	<u>INTRODUCTION</u>	
1.1	<p>In terms of Section 30 of the Public Service Act, 1994 every government employee shall place the whole of his or her time at the disposal of the State. No officer or employee shall perform or engage him or herself to perform remunerative work outside his or her employment in the Public Service, without permission granted by the relevant executing authority or an officer authorized by the said authority. Section 31 of the Act further stipulates that if an officer receives any remuneration, allowance or other reward, otherwise than in accordance with Section 30 of the Act, an amount equal to such remuneration, allowance or reward received must be paid into the revenue account.</p>	
1.2	<p>In terms of the Public Service Regulations, all designated employees or officials occupying a post at SMS level (level 13 and upwards) must disclose their registrable interests to the executing authority of their departments. Such disclosures must be submitted to the Director General of the Public Service Commission who in turn should keep a register of such interests.</p>	
1.3	<p>As a Public Service institution, it is incumbent upon the Department of Correctional Services to observe and comply with all the legislation and policies governing the Public Service. This procedure manual is therefore aimed at giving effect to this need and to ensure uniform and common understanding of the provisions of the Public Service Act and Regulations.</p>	
2.	<u>PURPOSE</u>	
2.1	<p>The purpose of this procedure manual is to regulate the implementation of the provisions of Section 30 of the Public Service Act, 1994, the Public Service Regulations, 2001 as referred to above and the Departmental Policy on financial disclosure and performance of remunerative work outside employment in the Department as has been approved by the Minister.</p>	

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PAR. NO.	CONTENT / PROVISIONS	REFERENCE
3.	<u>DEFINITION OF TERMS</u>	
3.1	Designated employee means a member of the Senior Management Service (SMS) occupying a post at salary level 13 and upwards.	<i>Public Service Regulations, 2001 Chapter 3 paragraph A(a)</i>
3.2	Non-designated employee means an official who is occupying a position at salary level 12 and below.	
3.3	Remuneration means the receipt of benefits in cash or in kind.	
3.4	Work means rendering a service for which the official receives remuneration.	
3.5	Executing authority is a generic Public Service term which refers to a minister of a department and in the context of this manual it refers to the Minister of Correctional Services.	
4.	<u>FINANCIAL DISCLOSURE</u>	
4.1	<u>Scope of application</u>	
4.1.1	Financial disclosure as regulated by the Public Service Regulations is applicable to all designated employees.	
4.1.2	<p>However, in order to promote compliance with the principles of the Public Finance Management Act, 1 of 1999, disclosure and/or declaration of interests is also applicable to the following categories of non-designated employees:</p> <ul style="list-style-type: none"> (i) officials who are employed within the supply chain management component who are dealing with tender adjudication; (ii) production workshop managers; (iii) officials to whom authority for approving procurement and/or provision of goods and services to the department, has been delegated; as well as other officials as may, from time to time, be reasonably deemed fit, by the Minister or the Commissioner 	

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4.2	<u>General principles on financial disclosure</u>	
4.2.1	Designated employees including other employees as referred to in paragraph 4.1.1 above are entrusted with management of public funds. As such, they need to maintain the highest standard of professional ethics. Their integrity and that of the department must therefore be beyond question.	
4.2.2	Every designated employee in the Department must disclose particulars of all his / her registrable interests to the Commissioner of Correctional Services, in respect of the period 1 April of the previous year to 31 March of the year in question not later than 30 April of each year.	<i>Public Service Regulations, 2001 Chapter 3 paragraph C.1</i>
4.2.3	Designated employees who are appointed after 1 April must make such disclosure within 30 days after assumption of duty in respect of the period of 12 months preceding her / his assumption of duty.	<i>Public Service Regulations, 2001 Chapter 3 paragraph C.3</i>
4.2.4	The prescribed financial disclosure form must be completed in the official's own handwriting and be certified by a Commissioner of Oaths / Justice of the Peace. By completing the form, the official is not exempted from the statutory requirements (Section 30 (b) of the Act) of obtaining approval for performing remunerative work outside employment in the Public Service. The provisions of paragraph 5 below which deal with performance of remunerative work outside employment in the Department are therefore applicable to all officials including designated employees.	
4.3	<u>Types of interests to be disclosed</u>	<i>Public Service Regulations, 2001 Chapter 3 paragraph D</i>
4.3.1	Shares and other financial interests	
4.3.1.1	The following details must be disclosed with regard to shares and other financial interests held in any private or public company or any other corporate recognized by law: (i) The number, nature and nominal value of shares (of any type); (ii) The nature and value of any other financial interests held in any private or public company or any other corporate entity; and (iii) The name of that entity.	

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4.3.2	Directorship of companies and partnerships	
4.3.2.1	The following details must be disclosed with regard to directorship of companies and partnerships: (i) The name, and type of business activity of the corporate entity or partnership; and (ii) The amount of any remuneration, benefit or reward received for such directorship.	
4.3.3	Remunerative work outside the Department	
4.3.3.1	All remunerated employment outside employment in the Department, must be sanctioned by the Minister's delegate as required by section 30 of the Public Service Act, 1994 (see paragraph 7 below).	
4.3.3.2	The following details must be disclosed with regard to remunerated work outside employment in the Department: (i) The type of work and position held; (ii) The name, and type of business activity, the employer; (iii) The amount of remuneration, allowance or reward received for such work; and (iv) Other particulars as explained under the provisions of paragraph 5 below.	
4.3.4	Consultancies and retainerships	
4.3.4.1	The following details must be disclosed with regard to consultancies and retainerships: (i) The nature of the consultancy or retainership of any kind (ii) The name, and type of business activity, the client concerned; and (iii) The value of any benefits received for such consultancy or retainership.	
4.3.5	Sponsorships	

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4.3.5.1	The following details must be disclosed with regard to sponsorships: (i) Purpose of such sponsorship;	
	(ii) The source and description of direct financial sponsorship or assistance; and (iii) The value of the sponsorship or assistance	
4.3.6	Gifts and hospitality from a source other than a family member	
4.3.6.1	Designated employees must disclose any material advantage that they have received from any source e.g. any discount price(s) or rates that are not available to the general public.	
4.3.6.2	Personal gifts within the family and hospitality of a traditional or cultural nature need not be disclosed.	
4.3.6.3	The following details must be disclosed with regard to gifts and hospitality: (i) A description, value and source of gift with a single source 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 relevant 12 month period; and (iii) Hospitality intended as a gift in kind.	
4.3.7	Land and property	
4.3.7.1	The following details must be disclosed with regard to ownership and other interests in land and property (residential or otherwise both inside and 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.	
5.	<u>PERFORMANCE OF REMUNERATIVE WORK OUTSIDE EMPLOYMENT IN THE DEPARTMENT</u>	
5.1	The following provisions are applicable to all members (designated or	

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	non-designated) who are employed by the Department of Correctional Services:	
5.1.1	No official shall perform or engage him-/herself to perform remunerative work outside his/her employment in the Department without permission granted by the Minister or his delegate.	<i>Section 30(b) of the Public Service Act, 1994</i>
5.1.2	An official performs remunerative work if he/she renders any service outside employment in the Department of Correctional Services for which he/she receives remuneration benefit or reward of any kind. The nature of such remuneration or reward may be cash or in kind.	
5.1.3	An official who is to become a candidate in an election of the members of the National Assembly or of any Provincial Legislature, or who is to be nominated as a permanent delegate to the National Council of Provinces, must resign from the service before taking up such a position.	<i>Public Service Regulations, 2001 Part VII G.2.4</i>
5.1.4	Should an official of the Department be elected in a municipal council to a position of a councillor, the following requirements must be observed and be complied with: (i) if the official will serve in such a position on a full time basis, he or she must resign from the service before taking up such a position. (ii) if the official will serve in such a position on a part-time basis, he or she may not take up such a position prior to making an application in accordance with this procedure manual, with the understanding that, such part-time work may only be performed exclusively outside official working hours in the Department.	<i>DPSA Circular Ref 1/3/8/P dd 7/10/2005</i>
5.1.5	An official may only seek approval for the performance of remunerative work outside employment in the Department by submitting a written application to the Minister's delegate, via his/her supervisor. In the application for authorization the official must indicate the specific interest and/or remunerative work he/she is seeking approval for and the following details must form part of such application: (i) Full names of the applicant, ID No., Persal No, Name of the	

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	<p>Company or entity he or she has interests in or to which services are to be provided (and its registration number), the nature of work, position to be held in such entity and remuneration, allowances and/or reward he or she will be entitled to.</p>	
5.1.6	<p>(ii) The application must also disclose the extent to which the factors which are set out in paragraph 5.1.6(i – vii) below will have an effect on the nature of work to be performed.</p> <p>The supervisor must consider the application thoroughly whereafter a proper recommendation must be made to the Minister's delegate. Each application to perform remunerative work outside employment in the Department must be considered with due regard to the following:</p> <p>(i) Nature of remunerative work for which application is being made and the extent to which it is related to the activities attached to the applicant's current duties to determine whether it would not entail any conflict of interest with the department's activities in general.</p> <p>(ii) The position of the applicant in the department and the nature of the work in the office/section in which the official is employed and whether the official will in no way be hampered in the performance of his / her official duties.</p> <p>(iii) Whether the work will be performed entirely outside the prescribed or official working hours.</p> <p>(iv) Whether the work is not of such a nature that it may hold a potential embarrassment for the department.</p> <p>(v) Whether the entity or organization for which work will be performed or to which the official has an interest, is not providing services or goods to the Department. It may be inappropriate for an official to provide services or to have an interest in an entity or organization which provides services or goods to the Department.</p> <p>(vi) General availability of persons outside the Public Service to undertake the work to be performed. This is to ensure that the department's officials do not unfairly compete with</p>	

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	<p>ordinary members of the public for work opportunities. (vii) Or any other factor that may have a negative influence on the performance of work in the department.</p>	
5.1.7	<p>Any official making any application for the performance of remunerative work must ensure that his or her application provides the necessary details to enable the delegated official to make an informed decision. The applicant must also make a declaration that he or she shall observe and abide by any reasonable conditions that may be set by the department if the application is approved.</p>	
5.1.8	<p>No ex post facto approval may be given and officials are therefore strictly expected to seek the necessary approval prior to engaging themselves in the performance of remunerative work outside employment in the Department.</p>	
5.1.9	<p>Compliance with the factors referred to in paragraph 5.1.6 above including any other condition that may be set upon approval of the application must be monitored by supervisors on a continuous basis.</p>	
5.1.10	<p>Failure to comply with any set condition may lead to the summary withdrawal of the permission. Such withdrawal may be effected by the immediate supervisor without consultation with the original decision maker, provided that an official who reasonably believes that such summary withdrawal has been unfairly effected, may lodge an appeal with the original decision maker who may, upon consideration of the merits of such submission, either confirm summary withdrawal or reinstate original approval conditionally or unconditionally.</p>	
5.1.11	<p>The Department of Correctional Services is committed towards the promotion of effective service delivery in the interest of the citizens of the country and accordingly, only applications for the performance of remunerative work outside employment in the Department which shall be performed outside official working hours may be submitted for consideration.</p>	

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5.1.12	In order to create a reliable database of all officials whose applications have been dully approved, personnel offices at the Management Area, Regional and Head Office level must open and maintain a computerized register in which details of all such officials, at all the aforesaid levels in the department, are kept. A manual register must also be kept concurrently with the computer register.	
5.1.13	The content of the register must be made up of, <i>inter alla</i> , the following information: (i) Details of the official (Persal No, Initials & Surname and Rank) (ii) Name of entity / organization (iii) Nature or kind of work performed (iv) Capacity or position held by the official (v) Approval date	
5.1.14	Information in the aforesaid registers must be linked to the national Management Information System so that the database may be electronically accessed by the relevant functionaries including senior management as and when the need arises, without tampering with the integrity thereof.	
5.1.15	All newly appointed officials in the department who are or would be performing remunerative work outside employment in the Department, must make applications for the approval of the performance of such remunerative work within 30 days of the assumption of their duties in the Department.	
6.	<u>IMPLICATIONS FOR NON-COMPLIANCE</u>	
6.1	<u>Financial Disclosure</u>	
6.1.1	Any designated employee who fails to disclose interests as required in terms of the Regulations or who when disclosing an interest willfully provides incorrect or misleading details is guilty of misconduct.	<i>Public Service Regulations, 2001 Chapter 3 paragraph H</i>
6.2	<u>Performance of remunerative work outside employment in the Department</u>	

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6.2.1	An official who has received any remuneration, allowance or other reward without having received prior approval thereof shall be obliged in terms of the Act , to pay into the revenue an amount equal to any remuneration, allowance or other reward received or which accrued to him / her by virtue of performance of such remunerative work.	Section 31 of the Public Service Act, 1994
6.2.2	Any employee of the Department whether designated or non-designated who performs remunerative work outside employment in the Department without the necessary permission, or who when making an application for the performance of such work willfully provides incorrect or misleading details, or who fails to comply with any of the provisions of this manual renders him/herself guilty of misconduct and shall be dealt with in terms of the Departmental Disciplinary Code and Procedures.	
7.	<u>DELEGATION OF AUTHORITY BY THE MINISTER</u>	
7.1	Authority for approval of applications for the performance of remunerative work outside employment in the Department has been delegated by the Minister in terms of Section 30(b) of the Public Service Act, 1994, as follows:	
7.1.1	<u>Authority Delegated</u> Granting of permission to officials for the performance of remunerative work outside employment in the Department of Correctional Services: (i) Officials at deputy director level and below (Management Area and Regional Level) (ii) Officials at deputy director level and below (Head Office Level) (iii) Officials at SMS level (level 13 – 15)(National)	<u>Level of delegation</u> - Regional Commissioner - Chief Deputy Commissioner Corporate Services - National Commissioner

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Approved



20 October 2005

COMMISSIONER: CORRECTIONAL SERVICES
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