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PROCLAMATION by the ACTING PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA No. R. 41, 2000

EXECUTIVE ETHICS CODE

In terms of section 2 (1) of the Executive Members' Ethics Act, 1998 (Act No. 82 of 1998), I hereby, after consultation with Parliament, publish the Executive Ethics Code with which Members of the Cabinet, Deputy Ministers and Members of Provincial Executive Councils must comply in performing their official responsibilities.

Given under my hand and the Seal of the Republic of South Africa at Pretoria on this Twentieth day of July, Two Thousand.

J.G. ZUMA

Acting President

By Order of the President-in-Cabinet:

A. K. ASMAL

Minister of the Cabinet

EXECUTIVE ETHICS CODE

1. Definitions

In this Code, any word or expression defined in the Act bears that meaning and, unless the context indicates otherwise -

'company or corporate entity' includes any public or private company, any close corporation and any trust, other than a charitable trust, but does not include a charitable organisation or an association not for gain (section 21 company);

'family member', in relation to a member, means the members parent, spouse, companion or dependant child;

member of the Executives' means a Cabinet member, a Deputy Minister or a Member of a Provincial Executive Committee, and "member" and "Executive" have corresponding meanings;

'permanent companion', in relation to a member, means a person who is cohabiting with the member and is publicly acknowledged by the member as the member's permanent companion;

'Secretary', in relation to members of the Cabinet, means the Secretary of the Cabinet and, in respect of members of an Executive Council, the Secretary of the Executive Council;

'the Act' means She Executive Members' Ethics Act, 1998 (Act No 82 of 1998).

2. General Standards

2.1 Members of the Executive must to the satisfaction of the President or the Premier, as the case may be

- (a)** perform their duties and exercise their powers diligently and honestly;
- (b)** fulfill all the obligations imposed upon them by the Constitution and law; and
- (c)** act in good faith and in the best interest of good governance; and
- (d)** act in all respects in a manner that is consistent with the integrity of their office or the government.

2.2 in deciding whether members of the Executive complied with the provisions of clause 2. 1, the President or Premier, as the case may be, must take into account the promotion of an open, democratic

and accountable government.

2.3 Members of the Executive may not

- (a)** wilfully mislead the legislature to which they are accountable;
- (b)** wilfully mislead the President or Premier, as the case may be;
- (c)** act in a way that is inconsistent with their position;
- (d)** use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person;
- (e)** use information received in confidence in the course of their duties otherwise than in connection with the discharge of their duties;
- (f)** expose themselves to any situation involving the risk of a conflict between their official responsibilities and their private interests;
- (g)** receive remuneration for any work or service other than for the performance of their functions as members of the Executive or
- (h)** make improper use of any allowance or payment properly made to them, or disregard the administrative rules which apply to such allowance or payments.

3. Conflict of interest

3.1 A member must declare any personal or private financial or business interest that the member may have in a matter

- (a)** that is before the Cabinet or an Executive Council:
- (b)** that is before a Cabinet Committee or Executive Council. on which the member serves; or
- (c)** in relation to which the member is required to take a decision as a member of the Executive.

3.2 A member must withdraw from the proceedings of any committee of the Cabinet or an Executive Council considering a matter in which the member has any personal or private financial or business interest. unless the President or the Premier. as the case may be, decides that the member's interest is trivial or not relevant.

3.3 If, a member is required to adjudicate upon or decide a matter in which the member has a personal or private financial or business interest the member must declare that interest to the President or the Premier, as the case may be, and seek the permission of the President or Premier to adjudicate upon or decide the matter

3.4 If a member makes representations to another member of the Executive with regard to a matter in which the member has a personal or private financial or business interest, the member must declare that interest to the other member.

3.5 For the purposes of the paragraphs 3.1, 3. 2, 3.3 and 3. 4 the personal or private financial or business interest of a member includes any financial or business interest which, to the member's knowledge, the member's spouse, permanent companion or family member has.

3.6 Where a member holds any financial or business interest in a company or corporate entity or profit-making enterprise which may give rise to a conflict of interest in the performance of that member's functions as a member of the Executive, the member must, within two months of the promulgation of this Code, or within two months of assuming office, or within two months of acquiring such interest, as the case may be. or within such longer period as the President or, if the member is a member on an Executive Council, the Premier determines-

- (a)** dispose of such interest: or
- (b)** place the administration of the interest under the control of an independent and professional person or agency.

3.7 When the administration of a member's interest has been placed under the control of a person as contemplated in paragraph 3.6(b), the member may not, during the course of his or her term as member, have any communication with or give any instructions to that person regarding the interest or the administration or control thereof, save for purposes of complying with any legal requirement in respect of such interest, or to give instructions to sell such interest.

3.8 When a member is required to make arrangements to meet the conditions of paragraph 3.6, the professional costs occasioned thereby are recoverable from the state.

4. Gifts

4.1 A member may not solicit or accept a gift or benefit which

(a) is in return for any benefit received from the member in the member's official capacity;

(b) constitutes improper influence on the member, or

(c) constitutes an attempt to influence the member in the performance of the member's duties.

4.2 When a member, in the course of the member's duties, has received or has been offered a gift with a value of more than R1000, the member may request permission from the President or Premier, as the case may be, to retain or accept the gift. If the permission is granted the member may retain or accept the gift, but must disclose particulars thereof in terms of paragraph 6.5 of this Code. Where such permission has not been requested or granted the member must either

(a) return the gift or decline the offer; or

(b) donate the gift to the state.

4.3 For the purposes of paragraph 4.2 'gift' does not include travel facilities or hospitality arising from attendance at meals, functions, meetings, cocktail parties, conventions, conferences or similar events attended by the member as part of the member's executive duties.

5. Disclosure of Financial Interests

5.1 Every member must disclose to the Secretary particulars of all the financial interests, as set out in paragraph 6, of-

(a) the member; and

(b) the member's spouse, permanent companion or dependant children, to the extent that the member is aware of those interests.

5.2 The first disclosure must be made within 60 days after the promulgation of this Code or of a member's assumption of office, or of a member becoming aware of such interest, as the case may be.

5.3 After the first disclosure, members must annually disclose particulars of their financial interests on or before a date determined by the Secretary.

5.4 Cabinet members and Deputy Ministers who are members of the National Assembly and are required to disclose particulars of their financial interests in terms of the Rules of Parliament, comply with paragraph 5.1 -

(a) by submitting to the Secretary a copy of those particulars on the same date as they are filed with the relevant parliamentary official; and

(b) in so far as those particulars do not meet the requirements of paragraph 6 of this Code, by filing with the Secretary a statement containing the necessary additional disclosure.

5.5 Where any doubt exists as to whether particular financial interests must be disclosed, the member must consult the Secretary.

5.6 When a member makes a disclosure in terms of paragraph 5.1, the member must confirm in writing to the Secretary that the member receives no remuneration other than as a member of the Executive.

6. Financial Interests to be Disclosed:

Members must disclose the following interests and details:

6.1 Shares and other financial Interests in companies and other corporate entities by indicating:

- (a) The number, nature and nominal value of shares of any type in any public or private company;
- (b) the name of that company; and
- (c) the nature and value of any other financial interests held In any company or any other corporate entity.

6.2 Sponsorships:

- (a) The source and description of direct financial sponsorship or assistance from any source other than the member's party which benefits the member in his or her personal and private capacity; and
- (b) the amount or value of the sponsorship or assistance,

6.3 Gifts and hospitality other than that received from a spouse or permanent companion or family member:

A Description, including the value and source of -

- (a) any gift with a value of more than R350;
- (b) gifts received from a single source which cumulatively exceed the value of R350 in any calendar year;
- (c) hospitality intended as a personal gift and with a value of more than R350; and
- (d) hospitality intended as a gift and received from a single source, and which cumulatively exceeds the value of R350 in any calendar year.

6.4 Benefits:

- (a) The nature and source of any other benefit of a material nature; and
- (b) the value of that benefit.

6.5 Foreign travel other than personal visits paid for by the member, or official travel paid for by the state, or travel paid for by the member's party:

- (a) A brief description of the journey abroad; and
- (b) particulars of the sponsor.

6.6 Land and immovable property, including land or property outside South Africa

- (a) A description of and the extent of the land or property; (b) area in which it is situated; and (c) nature and value of interest in the land or property.

6.7 Pensions:

- (a) The source of any pension; and
- (b) the value of the pension.

7. Register of Financial Interests

7.1 Each Secretary must keep a register of all financial interests disclosed by members. The register must have a confidential part and a public part.

7.2 The following financial interests must be recorded in the confidential part of a register:

- (a) The value of interests in a corporate entity other or public company;
- (b) the details of foreign travel when the nature of a those details to be confidential;
- (c) the details, including the address, of any private
- (d) the value of any pension;

- (e) details of the financial interests of a member's spouse, permanent companion or dependant child;
- (f) the member's liabilities.

7.3 Only the president or premier, as the case may be, the public protector, the Secretary concerned and staff designated by the Secretary have access to the confidential part of a register.

7.4 No person who has access to the confidential part of a disclose particulars of any entry in that part to anyone other member concerned or another person who has such access, except when a court or the public protector so orders.

7.5 Any person has access to the public part of a register during office hours of the secretary concerned

8. General

8.1 A member must instruct a member of the staff of the member's office or Ministry to assist and monitor compliance with this Code. The information obtained by that staff member may not be disclosed to anyone, except in executing measures envisaged in this Code.

8.2 A member must assist the public Protector in the performance of She public Protector's functions under the Act.

8.3 This code may be amended or replaced, and the amounts specified in the Code adjusted from time to time by proclamation in the Government Gazette.

8.4 This Code is called the Executive Ethics Code, and comes into effect on the date of its promulgation in the Government Gazette.