

(as tabled)

GOVERNMENT NOTICE
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R.

2009

JUDICIAL SERVICE COMMISSION ACT, 1994 (ACT NO. 9 OF 1994)
REGULATIONS RELATING TO THE JUDICIAL SERVICE COMMISSION

The Minister of Justice and Constitutional Development has, in consultation with the Chief Justice under section 13(5) and under section 35 of the Judicial Service Commission Act, 1994 (Act No. 9 of 1994), made the regulations in the Schedule.

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Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned to it and, unless the context otherwise indicates—

"day" means any day of the week other than a Saturday, Sunday or public holiday;

"Register" means the Register of Judges' Registrable Interests, referred to in section 13(2) of the Act;

"Registrar" means the Registrar of Judges' Registrable Interests, appointed in terms of section 13(1) of the Act;

"registrable interest" means an interest contemplated in regulation 2;

"the Act" means the Judicial Service Commission Act, 1994 (Act No. 9 of 1994);

Registrable interests

2. The registrable interests of judges in active service, judges who had been discharged from active service and acting judges, and those of their immediate family members, are as listed in Annexure A.

Disclosure of registrable interests

3. (1) A judge must disclose particulars of all his or her registrable interests and those of his or her immediate family members on a form which corresponds substantially with Form 1 of Annexure B, and must lodge that disclosure with the Registrar.

(2) Subject to section 13(4) of the Act, a judge must lodge the first disclosure with the Registrar within 30 days of his or her appointment as a judge, and thereafter within 30 days after acquiring, or learning of the existence of, a new registrable interest.

(3) The Registrar must enter the particulars of a disclosure by a judge in the Register and must cause a copy of all entries relating to that judge, to be delivered to the judge. All entries relating to the registrable interests of a family member of a judge must be made in the confidential part of the Register.

(4) During March every year, a judge must inform the Registrar in writing whether the entries in the Register are an accurate reflection of that judges' registrable interests and those of his or her immediate family members and, if applicable, make such further disclosures to the Registrar, or inform the Registrar of such amendments, as may be required.

(5) If the Registrar has reason to believe that a judge—

(a) has failed or is failing to comply with a provision of these regulations; or

(b) may have disclosed incorrect or misleading information,

the Registrar must without delay invite that judge in writing to comply with the provision in question or to correct any information so disclosed.

(6) If, after a period of 30 days has lapsed after a judge received a written invitation in terms of subregulation (5), the Registrar still has reason to believe that the judge—

- (a) has failed or is failing to comply with a provision of these regulations; or
- (b) may have disclosed incorrect or misleading information,

the Registrar must without delay lodge a complaint against that judge in the manner contemplated in section 14(3) of the Act.

Application for consent

4. (1) An application for the written consent of the Minister as contemplated in—

- (a) section 11(1) of the Act, must be in writing and must correspond substantially with Part I of Form 2 of Annexure B; and
- (b) section 11(2) of the Act, must be in writing and must correspond substantially with Part II of Form 2 of Annexure B.

(2) An application contemplated in subregulation (1), together with certified copies of supporting documentation must be lodged in duplicate with the Chief Justice, who must—

- (a) consider the application;
- (b) make a written recommendation to the Minister; and
- (c) submit his or her written recommendation, together with a copy of the application and supporting documentation, to the Minister for consideration.

(3) The Minister must cause the Chief Justice and the judge who made an application to be informed of his or her decision regarding the application within a reasonable time.

Register

5. (1) The Register must correspond substantially with the format set out in Annexure C.

(2) The public part of the Register may be inspected by any person at the office of the Registrar or at any other venue agreed to by the Registrar, during office hours and under the supervision of a person designated by the Registrar.

(3) The Registrar must keep the Register in a safe place.

(4) Only the Heads of Court, the Registrar and any official designated in writing by the Registrar have unrestricted access to the Confidential Part of the Register. Any other person wishing to have access to information recorded in the confidential part of the Register must—

- (a) apply in writing for such access on a form which corresponds substantially with Form 3 of Annexure B; and
- (b) lodge the application contemplated in paragraph (a), in duplicate with the Registrar.

(5) Upon receipt of an application contemplated in subregulation (4) the Registrar must open a file in the name of the judge whose particulars have been requested and file all documents relating to the application on that file.

(6) The Registrar must within ten days of receipt of the application—

- (a) in writing inform the judge whose particulars were requested, of the application; and
- (b) request the judge to respond, in writing, to the application within 15 days after receiving the request.

(7) A judge whose particulars were requested may, in writing—

- (a) give permission to the access applied for; or
- (b) object to the application, stating the reasons for such objection..

(8) Upon receipt of a judge's written permission to grant access referred to in subregulation (7)(a), the Registrar must—

- (a) inform the applicant that the access has been granted; and
- (b) make the necessary arrangements for the applicant to have access to the requested particulars.

(9) If, after a request in terms of subregulation (6), a judge—

- (a) does not respond to the request; or
- (b) objects to the application,

the Registrar must submit the application to the Committee for consideration.

(10) The Committee must, after affording both parties a reasonable opportunity to put their arguments to the Committee, direct—

- (a) that it is in the applicant's or the public's interest to have such access, and that the applicant may have such access; or
- (b) that there is insufficient justification for the access applied for and that the access is refused.

(11) Upon receipt of the Committee's direction, the Registrar must inform the applicant accordingly and if the access has been granted, make the necessary arrangements for the applicant to have access to the requested particulars.

(12) Any access to information recorded in the confidential part of the Register, granted in terms of this regulation, must occur under the direct supervision of the Registrar.

(13) The Registrar must keep a record of all applications in terms of subregulation (4) and the outcome of thereof.

List of persons suitable to serve on Tribunals

6. (1) The Executive Secretary must from time to time and subject to the directions of the Chief Justice, invite the organised legal professions and the deans of law faculties of South African Universities to nominate persons who are not judicial officers, to be entered on the list referred to in section 23(1) of the Act.

(2) The nomination of a person must—

- (a) be in writing on a form which corresponds substantially with Form 4 of Annexure B; and
- (b) be accompanied by—
 - (i) a *curriculum vitae* of the person nominated;

(ii) such further particulars of the nominee as may be directed by the Chief Justice.

(3) The Executive Secretary must submit all nominations received to the Chief Justice.

(4) Upon receipt of the names of nominees approved by the Chief Justice in concurrence with the Minister, the Executive Secretary must enter those names on a list, which corresponds substantially with Form 5 of Annexure B.

Miscellaneous

7. (1) The Minister must, in writing, consult with the Chief Justice on the funds required for the administration and functioning of the Commission, as contemplated in section 36(3) of the Act.

(2) The affirmation of secrecy, contemplated in section 38(3)(b) of the Act, must be made and subscribed to in writing before any judicial officer or commissioner of oaths designated by the Chief Justice, whereafter the original affirmation must be entrusted to the Executive Secretary for safekeeping, and a copy of the affirmation must be given to the person who made and subscribed to that affirmation.

Short title

8. These regulations shall be called the Regulations relating to the Judicial Service Commission , 2009.

ANNEXURE A**REGULATIONS RELATING TO THE JUDICIAL SERVICE COMMISSION, 2009****REGISTRABLE INTERESTS**

[Regulation 2]

PART 1: Interests to be declared by Judges in Active Service

1. Immovable property, including immovable property outside South Africa.
2. Shares and other financial interests in companies and other corporate entities.
3. Directorships or business interests in a company, close corporation, partnership or any other business enterprise.
4. Any royalties, income or other benefits derived from the application of section 11 of the Act.
5. Sponsorships, including financial assistance from any source other than the income earned by a judge in his or her judicial capacity, or earned by an immediate family member in his or her personal capacity.
6. Gifts, other than a gift received from an immediate family member, with a value of more than R1000 or gifts received from a single source with a cumulative value of more than R1000 in a calendar year, and including hospitality intended as such.
7. Any other financial income not derived from the holding of judicial office.

PART 2: Interests to be declared by Judges discharged from Active Service

1. Shares and other financial interests in companies and other corporate entities.
2. Directorships or business interests in a company, close corporation, partnership or any other business enterprise.
3. Any royalties, income or other benefits derived from the application of section 11 of the Act.
4. Sponsorships, including financial assistance from any source other than the income earned by a judge in his or her judicial capacity, or earned by an immediate family member in his or her personal capacity.
5. Any other financial income not derived from the holding of judicial office.

PART 3: Interests to be declared by Acting Judges

1. Immovable property, including immovable property outside South Africa.
2. Shares and other financial interests in companies and other corporate entities.
3. Directorships or business interests in a company, close corporation, partnership or any other business enterprise.

4. Any royalties, income or other benefits derived from the application of section 11 of the Act.
5. Sponsorships, including financial assistance from any source other than the income earned by a judge in his or her judicial capacity, or earned by an immediate family member in his or her personal capacity.
6. Gifts, other than a gift received from an immediate family member, with a value of more than R1000 or gifts received from a single source with a cumulative value of more than R1000 in a calendar year, and including hospitality intended as such.
7. Any other financial income not derived from the holding of judicial office, during the term of service as an acting judge.

PART 4: Interests of immediate family members to be declared by judges

1. Immovable property, including immovable property outside South Africa, unless the judge concerned has been discharged from active service.
2. Shares and other financial interests in companies and other corporate entities.
3. Directorships or business interests in a company, close corporation, partnership or any other business enterprise.
4. Sponsorships, including financial assistance, from any source other than an immediate family member.
5. Gifts, other than a gift received from an immediate family member, with a value of more than R1000 or gifts received from a single source with a cumulative value of more than R1000 in a calendar year, and including hospitality intended as such, unless the judge concerned has been discharged from active service.

ANNEXURE B
FORM 1
REGULATIONS RELATING TO THE JUDICIAL SERVICE COMMISSION, 2009

DISCLOSURE OF REGISTRABLE INTERESTS

[Regulation 3]

File number:.....

Please note:

1. *This form must be completed in block letters.*
2. *Failure to comply with any provision in Regulation 3, or the disclosure of false or misleading information, will result in the lodging of a complaint contemplated in section 14 of the Act.*
3. *Proof of Minister's consent, granted in terms of section 11 of the Act, must be attached, where applicable.*
4. *A copy of a deed of transport/proof of ownership must be attached, if applicable.*

A.	PERSONAL PARTICULARS OF JUDGE					
	(To be completed by every judge, whether own or immediate family member's interest is disclosed)					
Surname:						
Full names:						
Identity number						
Court where serving (only in case of judge in active service or acting):						
Postal address:						
Telephone(h):	()		Telephone(b):	()		
Cellular phone nr:						
Facsimile nr:	()					
E-mail address:						
Please indicate service status:	Active service		Discharged		Acting service	
B.	PARTICULARS OF IMMEDIATE FAMILY MEMBER(S)					
	(To be completed if applicable. Please attach separate page if more than two family members have registrable interests.)					
1. Surname:						
Full names:						
Identity number:						
Relationship to judge:						
2. Surname:						

Full names:			
Identity number:			
Relationship to judge			
C.	PARTICULARS OF INTERESTS DISCLOSED		
1.	OWNERSHIP OR CO-OWNERSHIP OF IMMOVABLE PROPERTY (To be disclosed by judges in active service and acting judges, and also in respect of their immediate family members)		
	DESCRIPTION	LOCATION	VALUE
2.	SHARES (To be disclosed by all judges and also in respect of their immediate family members)		
	NATURE	NOMINAL VALUE	COMPANY/ENTITY
3.	DIRECTORSHIPS OR BUSINESS INTERESTS IN A COMPANY, CLOSE CORPORATION, PARTNERSHIP OR ANY OTHER BUSINESS ENTERPRISE (To be disclosed by all judges and also in respect of their immediate family members)		
	NAME OF ENTITY	TYPE OF BUSINESS	INCOME/BENEFIT DERIVED
4.	ROYALTIES, INCOME OR OTHER BENEFITS DERIVED FROM THE APPLICATION OF SECTION 11 OF ACT 9 OF 1994 (To be disclosed by judges in active service and judges discharged from active service)		
	NATURE OF BENEFIT	VALUE	PARTICULARS OF MINISTERIAL CONSENT

5.	SPONSORSHIPS (To be disclosed by all judges and also in respect of their immediate family members)			
	SOURCE OF SPONSORSHIP	NATURE OF SPONSORSHIP	NOMINAL VALUE	REMARKS
6.	GIFTS AND HOSPITALITY (To be disclosed by judges in active service and acting judges, and also in respect of their immediate family members)			
	SOURCE OF GIFT/HOSPITALITY	DESCRIPTION OF GIFT/HOSPITALITY	NOMINAL VALUE	REMARKS
7.	ANY OTHER FINANCIAL INCOME NOT DERIVED FROM HOLDING JUDICIAL OFFICE (To be disclosed by all judges, but, in respect of acting judges, only for the term of holding judicial office)			
	SOURCE OF INCOME	NATURE OF INCOME	NOMINAL VALUE	REMARKS

I, the undersigned(name of judge) hereby certify that the above information is complete and correct to the best of my knowledge.

Signed atthis.....day of.....20.....

.....
Signature of judge

**FORM 2
REGULATIONS RELATING TO THE JUDICIAL SERVICE COMMISSION, 2009**

**APPLICATION FOR CONSENT IN TERMS OF SECTION 11(1) AND (2) OF THE JUDICIAL
SERVICE COMMISSION ACT, 2008**

[Regulation 4(1)]

Please note:

1. *This form must be—*
 - (a) *completed in block letters; and*
 - (b) *submitted in duplicate to the Chief Justice.*
2. *Certified copies of supporting documentation must be attached to application.*
3. *If space provided is not enough, please continue on a separate page.*
4. *Part I of the form must be completed by a judge performing active service.*
5. *Part II of the form must be completed by a judge who has been discharged from active service.*

PART I		APPLICATION FOR CONSENT IN TERMS OF SECTION 11(1) OF THE JUDICIAL SERVICE COMMISSION ACT, 2008 (To be completed by a judge performing active service)			
Surname:					
Full names:					
Identity number					
Business address:					
Telephone(h):	()	Telephone(b):	()		
Cellular phone nr:					
Facsimile nr:	()				
E-mail address:					
Consent requested: Royalties for:	Legal books written		Legal books edited		
Give full description of royalties:					
SIGNED:					

Correspondence contact details (In terms of above):	
Postal address:	
	Code ()
Preferred official language for correspondence?	

Preferred official language for correspondence?			
PART C: PARTICULARS OF JUDGE WHO'S INFORMATION IS REQUESTED			
Name of Judge:			
Indicate Court:			
Seat of Court:			

PART D: INFORMATION REQUESTED			
Personal particulars of judge who disclosed a registrable interest		Personal particulars of immediate family member of judge who disclosed a registrable interest	
Particulars of judge's registrable interest		Particulars of immediate family member's registrable interest	
PART E: PARTICULARS OF INFORMATION REQUESTED (If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.)			
Specify the specific particulars you want access to:			
Indicate which right is to be exercised or protected to give rise to your request:			
Explain why the information requested is required for the exercise or protection of the aforementioned right (Give full reasons and attach proof, if any, to substantiate your request):			

Signed atthis.....day of20.....

.....
Signature of applicant

**FORM 4
REGULATIONS RELATING TO THE JUDICIAL SERVICE COMMISSION, 2009**

NOMINATION OF PERSON TO SERVE ON TRIBUNAL

[Regulation 6(2)]

This nomination form must be completed in print.

PART 1: NOMINATION OF PERSON

I,.....(Full names), identity number....., in my capacity as....., hereby nominates..... (full names) as a suitable person to serve on a Tribunal established in terms of section 21 of the Judicial Service Commission Amendment Act, 1994 (Act No. 9 of 1994). I would like to provide the following motivation in support of my nomination: (Attach written motivation)

Postal Address:

Contact numbers: Work:
Home:
Cellular:

Signed atthis.....day of20.....

.....
Signature of person nominating

[If the space provided is inadequate, submit information as an Annexure to this form and sign each page.]

PART 2: ACCEPTANCE OF NOMINATION

I,(full names) hereby accept the above nomination.

Address of nominee:

Contact details (including cell phone number, e-mail, fax etc.):
.....

Signed atthis.....day of20.....

.....
Signature of person nominated

ANNEXURE C

FORMAT OF REGISTER OF JUDGES' REGISTRABLE INTERESTS
[Regulation 5]

REGISTER OF JUDGES' REGISTRABLE INTERESTS

PART 1: PUBLIC PART

CHAPTER 1: JUDGES IN ACTIVE SERVICE

Name of Superior Court, e.g. Supreme Court of Appeal

Justice (Name of Judge):

Immovable property:

Description			Date of entry
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Shares:

Nature	Nominal value	Company/Entity	Date of entry
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Directorships/partnerships/business enterprises:

Name of entity	Type of business	Income/benefit derived	Date of entry
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Benefit derived from application of section 11 of Act 9 of 1994:

Nature of benefit	Value	Particulars of written consent	Date of entry
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Sponsorships

Source	Nature	Nominal value	Date of entry
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Gifts and hospitality

Source	Nature	Nominal value	Date of entry
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Other financial income not related to judicial office

Source		Value	Date of entry
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CHAPTER 2: JUDGES DISCHARGED FROM ACTIVE SERVICE

Justice (Name of Judge): **Date discharged:**

Shares:

Nature	Nominal value	Company/Entity	Date of entry
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Directorships/partnerships/business enterprises:

Name of entity	Type of business	Income/benefit derived	Date of entry
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Benefit derived from application of section 11 of Act 9 of 1994:

Nature of benefit	Value	Particulars of written consent	Date of entry
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Sponsorships

Source	Nature	Nominal value	Date of entry
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Other financial income not related to judicial office

Source	Value	Date of entry
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CHAPTER 3: ACTING JUDGES

Name of Superior Court, e.g. Supreme Court of Appeal

Justice (Name of Acting Judge):

Immovable property:

Description	Date of entry
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Shares:

Nature	Nominal value	Company/Entity	Date of entry
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Directorships/partnerships/business enterprises:

Name of entity	Type of business	Income/benefit derived	Date of entry
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Benefit derived from application of section 11 of Act 9 of 1994:

Nature of benefit	Value	Particulars of written consent	Date of entry
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Sponsorships

Source	Nature	Nominal value	Date of entry
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Gifts and hospitality

Source	Nature	Nominal value	Date of entry
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Other financial income not related to judicial office

Source	Value	Date of entry
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PART 2: CONFIDENTIAL PART**CHAPTER 1: JUDGES IN ACTIVE SERVICE****Name of Superior Court, e.g. Supreme Court of Appeal****Justice (name of Judge): Personal registrable interests:****Immovable property:**

Description	Location	Value	Date of entry
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Name, age and gender of immediate family member of Judge:**Registrable assets of (name of above family member):****Immovable property:**

Description	Location	Value	Date of entry
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Shares:

Nature	Nominal value	Company/Entity	Date of entry
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Directorships/partnerships/business enterprises:

Name of entity	Type of business	Income/benefit derived	Date of entry
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Sponsorships

Source	Nature	Nominal value	Date of entry
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Gifts and hospitality

Source	Nature	Nominal value	Date of entry
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CHAPTER 2: JUDGES DISCHARGED FROM ACTIVE SERVICE**Justice (name of Judge): Personal registrable interests:****Immovable property:**

Description	Location	Value	Date of entry
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Name, age and gender of immediate family member of Judge:**Registrable assets of (name of above family member):****Immovable property:**

Description	Location	Value	Date of entry
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Shares:

Nature	Nominal value	Company/Entity	Date of entry
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Directorships/partnerships/business enterprises:

Name of entity	Type of business	Income/benefit derived	Date of entry
Sponsorships			
Source	Nature	Nominal value	Date of entry

Gifts and hospitality

Source	Nature	Nominal value	Date of entry
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CHAPTER 3: ACTING JUDGES**Justice (name of Judge): Personal registrable interests:****Immovable property:**

Description	Location	Value	Date of entry
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Name, age and gender of immediate family member of Judge:**Registrable assets of (name of above family member):****Immovable property:**

Description	Location	Value	Date of entry
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Shares:

Nature	Nominal value	Company/Entity	Date of entry
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Directorships/partnerships/business enterprises:

Name of entity	Type of business	Income/benefit derived	Date of entry
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Sponsorships

Source	Nature	Nominal value	Date of entry
--------	--------	---------------	---------------

Gifts and hospitality

Source	Nature	Nominal value	Date of entry
--------	--------	---------------	---------------