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## GOVERNMENT NOTICE

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### DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R. 56

29 January 2014

#### JUDICIAL SERVICE COMMISSION ACT, 1994 (ACT NO. 9 OF 1994)

#### REGULATIONS RELATING TO THE JUDICIAL SERVICE COMMISSION ACT, 1994: DISCLOSURE OF REGISTRABLE INTERESTS

The Minister of Justice and Constitutional Development, has under section 35(1)(a) read with section 13(5) of the Judicial Service Commission Act, 1994 (Act No. 9 of 1994), in consultation with the Chief Justice and after section 13(8) of the said Act was complied with, 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;

"acting judge" does not include a judge who is temporarily appointed to act in a different capacity or as a judge of a different court;

"judge" does not include an acting judge;

"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. (1) Subject to subregulation (2), the registrable interests of—

- (a) judges in active service and those of their immediate family members; and
- (b) judges who have been discharged from active service, who are required to be available to perform service in terms of section 7((1)(a)(i) of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001),

are as listed in Annexure A.

(2) (a) The interests of judges who have been discharged from active service and who are not required to be available to perform service in terms of section 7((1)(a)(i) of the Judges' Remuneration and Conditions of Employment Act, 2001, are not registrable, but if such a judge is called on to perform service as a judge, the Head of the Court where that judge performs that service may, on an application in chambers by a party to proceedings before that judge, require the judge to disclose to the Head of Court and the party in question whether the judge has any interests that may, or may be perceived to, prejudice the integrity of those proceedings. If the service in question is not related to a particular court, the application may be made to the Chief Justice.

(b) The interests of a judge's dependent children are registrable if the judge is in active service. The interests of a judge's other immediate family members are only registrable if—

- (i) the judge is in active service;
- (ii) the judge wishes to disclose those interests; and
- (ii) the immediate family members in question consent to such disclosure.

(3) The interests of an acting judge are not registrable, but the Head of the Court where such a judge holds an acting appointment may, on an application in chambers by a party to proceedings before that acting judge, require the acting judge to disclose to the Head of Court and the party in question whether the acting judge has any interests that may, or may be perceived to, prejudice the integrity of those proceedings.

### **Disclosure of registrable interests**

3. (1) A judge referred to in regulation 2(1) must disclose particulars of all his or her registrable interests on a form which corresponds substantially with Form 1 of Annexure B, and must lodge that disclosure with the Registrar. A judge in active service must also disclose the registrable interests of his or her dependent children and may, in respect of other immediate family members, make such disclosures as to which they may consent.

(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.

(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) A judge referred to in subregulation (1) may at any time make disclosures to the Registrar, or inform the Registrar of such amendments as may be required, but every such judge must, during March every year, inform the Registrar in writing whether the entries in the Register are an accurate reflection of that judges' registrable interests and, if applicable, make such further disclosures or amendments, as may be required.

(5) If the Registrar becomes aware at any time of any information relating to the interests of a judge in active service, that may require material changes to the disclosures made by that judge, the Registrar must in writing inform the Head of Court of the judge of that information.

(6) If the Registrar has reason to believe that any 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.

(7) If, after a period of 30 days has lapsed after a judge received a written invitation in terms of subregulation (6), 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, an official designated in writing by the Registrar and, when it is relevant to a complaint referred to in section 14 of the Act, the person conducting the inquiry into that complaint, have access to the Confidential Part of the Register.
- (5) The Registrar must, for the purposes of indicating the degree of compliance with the Register in the annual report of the Commission, as contemplated in section 6(2)(c) of the Act, also furnish the Commission with the names of those judges in active service who have disclosed interests of their family members.

**Short title**

6. These regulations shall be called the Regulations relating to the Judicial Service Commission Act, 1994.

**ANNEXURE A****REGULATIONS RELATING TO THE JUDICIAL SERVICE COMMISSION ACT, 1994****REGISTRABLE INTERESTS  
[Regulation 2]****PART 1:****Interests to be disclosed by Judges in active service**

1. Immovable property, including immovable property outside South Africa. (The physical address and value of the property are to be disclosed in the confidential part of the Register.)
2. Shares and other financial interests in companies and other corporate entities. (Public part of the Register.)
3. Directorships, business or financial interests in any business enterprise or any legal entity. (Public part of the Register.)
4. Any royalties derived from the application of section 11 of the Act.
5. Gifts, other than a gift received from an immediate family member, with a value of more than R 1500 or gifts received from a single source with a cumulative value of more than R 1500 in a calendar year, and including hospitality intended as such. (Public part of the Register.)
6. Any other financial income not derived from the holding of judicial office. (Public part of the Register.)

**PART 2:****Interests to be disclosed by Judges discharged from active service****who are required to be available to perform service in terms of section 7((1)(a)(i)****of the Judges' Remuneration and Conditions of Employment Act, 2001****(Act No. 47 of 2001)**

1. Shares and other financial interests in companies and other corporate entities. (Public part of the Register.)
2. Directorships, business or financial interests in any business enterprise or any legal entity. (Public part of the Register.)
3. Any royalties, income or other benefits derived from the application of section 11 of the Act. (Public part of the Register.)
4. Any other financial income not derived from the holding of judicial office. (Public part of the Register.)



**PART 3:****Interests of immediate family members to be declared by judges in active service if applicable**

- A.** In respect of the dependent children of the judge, the following interests, in the confidential part of the Register:
1. Immovable property, including immovable property outside South Africa.
  2. Shares and other financial interests in companies and other corporate entities.
  3. Directorships, business or financial interests in any business enterprise or any legal entity. (Public part of the Register.)
  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 R1500 or gifts received from a single source with a cumulative value of more than R1500 in a calendar year, and including hospitality intended as such, unless the judge concerned has been discharged from active service.
- B.** In respect of immediate family members, other than dependent children of the judge, any one or more of the interests listed in A above, that the judge may, with the consent of the family member, wish to declare in the confidential part of the Register.

## ANNEXURE B

## FORM 1

## REGULATIONS RELATING TO THE JUDICIAL SERVICE COMMISSION ACT, 1994

## 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, may 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.*

A.	<b>PERSONAL PARTICULARS OF JUDGE</b> (To be completed by every judge referred to in regulation 2(1))		
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: ..... years of age
B.	<b>PARTICULARS OF IMMEDIATE FAMILY MEMBER(S)</b> (To be completed by judges in active service if disclosure is to be made. 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			
<b>C.</b>	<b>PARTICULARS OF INTERESTS DISCLOSED</b>		
<b>1.</b>	<b>OWNERSHIP OR CO-OWNERSHIP OF IMMOVABLE PROPERTY</b> (To be disclosed by judges in active service. Please indicate if disclosure is made in respect of immediate family members.)		
	<b>DESCRIPTION</b>	<b>LOCATION</b>	<b>VALUE</b>
<b>2.</b>	<b>SHARES</b> (To be disclosed by all judges required to make disclosures in terms of regulation 2(1). Please indicate if disclosure is made in respect of immediate family members.)		
	<b>NATURE</b>	<b>NOMINAL VALUE</b>	<b>COMPANY/ENTITY</b>
<b>3.</b>	<b>DIRECTORSHIPS, BUSINESS OR FINANCIAL INTERESTS IN ANY BUSINESS ENTERPRISE OR ANY LEGAL ENTITY</b> (To be disclosed by all judges required to make disclosures in terms of regulation 2(1). Please indicate if disclosure is made in respect of immediate family members.)		
	<b>NAME OF ENTITY</b>	<b>TYPE OF BUSINESS</b>	<b>INCOME/BENEFIT DERIVED</b>
<b>4.</b>	<b>ROYALTIES, INCOME OR OTHER BENEFITS DERIVED FROM THE APPLICATION OF SECTION 11 OF ACT 9 OF 1994</b> (To be disclosed by all judges required to make disclosures in terms of regulation 2(1).)		
	<b>NATURE OF BENEFIT</b>	<b>VALUE</b>	<b>PARTICULARS OF MINISTERIAL CONSENT</b>

<b>5.</b>	<b>SPONSORSHIPS</b> (Only in respect of immediate family members, if applicable, by judges in active service.)		
	<b>SOURCE OF SPONSORSHIP</b>	<b>NATURE OF SPONSORSHIP</b>	<b>NOMINAL VALUE</b>
			<b>REMARKS</b>
<b>6.</b>	<b>GIFTS AND HOSPITALITY</b> (To be disclosed by judges required to make disclosures in terms of regulation 2(1). Please indicate if disclosure is made in respect of immediate family members.)		
	<b>SOURCE OF GIFT/HOSPITALITY</b>	<b>DESCRIPTION OF GIFT/HOSPITALITY</b>	<b>NOMINAL VALUE</b>
			<b>REMARKS</b>
<b>7.</b>	<b>ANY OTHER FINANCIAL INCOME NOT DERIVED FROM HOLDING JUDICIAL OFFICE</b> (To be disclosed by all judges required to make disclosures in terms of regulation 2(1).)		
	<b>SOURCE OF INCOME</b>	<b>NATURE OF INCOME</b>	<b>NOMINAL VALUE</b>
			<b>REMARKS</b>

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

Signed at ... ..this ... .. day of ... ..20 ... ..

.....  
*Signature of judge*

**FORM 2  
REGULATIONS RELATING TO THE JUDICIAL SERVICE COMMISSION ACT, 1994**

**APPLICATION FOR CONSENT IN TERMS OF SECTION 11(1) AND (2) OF THE JUDICIAL  
SERVICE COMMISSION ACT, 1994**

**[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.*

<b>PART I</b>	<b>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)</b>			
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:				

<b>SIGNED:</b>	-----		
	Name of Judge	Place	Date
<b>PART II</b>	<b>APPLICATION FOR CONSENT IN TERMS OF SECTION 11(2) OF THE JUDICIAL SERVICE COMMISSION ACT, 2008</b> <b>(To be completed by a judge who has been discharged from active service)</b>		
Surname:			
Full names:			
Identity number:			
Residential Address:			
Business address:			
Postal address:			
Telephone(h):	( )	Telephone(b):	( )
Cellular phone nr:			
Facsimile nr:	( )		
E-mail address:			
Consent requested for:	Holding/performing other office of profit	Fees/emoluments/ other remuneration/allowance apart from salary	
Give full description of office/fees/emoluments/ other remuneration/ allowance /other amount:			
From whom would office/fees/emoluments/ other remuneration/ allowance /other amount be received			
<b>SIGNED:</b>	-----		

	Name of Judge	Place	Date
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## 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
-------------	---------------

**Shares:**

Nature	Nominal value	Company/Entity	Date of entry
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**Directorships, business or financial interests in any business enterprise or any legal entity:**

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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**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:      Age:

**Shares:**



Nature	Nominal value	Company/Entity	Date of entry
<b>Directorships, business or financial interests in any business enterprise or any legal entity:</b>			
Name of entity	Type of business	Income/benefit derived	Date of entry
<b>Benefit derived from application of section 11 of Act 9 of 1994:</b>			
Nature of benefit	Value	Particulars of written consent	Date of entry
<b>Other financial income not related to judicial office</b>			
Source		Value	Date of entry

**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):****Immovable property:**

Description	Location	Value	Date of entry
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