

NATIONAL COUNCIL

CODE OF CONDUCT

&

DISCLOSURE OF THE FINANCIAL AND BUSINESS  
INTERESTS OF THE MEMBERS OF THE NATIONAL  
COUNCIL

10 OCTOBER 2005

## CODE OF CONDUCT & DISCLOSURE OF MEMBERS' INTERESTS

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## **CHAPTER 1 DEFINITIONS**

1. All words in this Code which have been defined in the Standing Rules and Orders shall bear the same meaning and, unless the context indicates otherwise,

“The Act” means the Powers, Privileges and Immunities of parliament Act, Act No. 17 of 1996.

“Committee” means the Standing Committee on Privileges;

“dependent” means any person who is wholly or mainly dependent on the Member of financial or material support;

“dependent child” means an unmarried son, daughter, stepson or stepdaughter, by blood or law, under the age 21 years who is wholly or mainly dependent on the Member for financial or material support, and includes a dependent child as here defined, who is older than 21 years still attending an educational institution and is wholly or mainly financially or materially supported by the Member;

“equity value of a sole ownership” means the nett value of the sole ownership expressed as the difference between its assets and liabilities, and includes the profit that the sole ownership generates annually, its market value and the number of shares, if any, it holds in another business enterprise;

“financial interest” means the percentage value of a Member’s interest in a business enterprise, and includes loans made to and dividends received from such business enterprise;

“nominal value of shares” means the value at which the shares were acquired;

“pension” excludes a pension received or receivable from the Government of the Republic of Namibia;

“permanent companion” means a person who is publicly acknowledged by a Member as that Member’s permanent companion or partner; or who is publicly perceived to be that Member’s permanent companion or partner;

“Register” means the Register of Members’ Interests referred to in clause 9 (2);

“Registrar” means the Secretary of the National Council;

“remuneration” excludes the income a Member receives by virtue of membership of the House or Ministerial Office;

“spouse” means a Member’s marriage mate, irrespective of whether the parties were married formally (church, magistrate’s court etc) or traditionally.

## **CHAPTER 2 APPLICATION OF THE CODE**

2. (1) This Code forms part of the Rules of the Council as contemplated in article 74 of the Namibian Constitution,
- (2) The code is applicable to:
  - (a) All members of the Council, and
  - (b) Spouses, permanent companions, dependent children and other dependents of members of the Council, to the extent that the member is aware of their registrable interests.

## **CHAPTER 3 PERSONAL CONDUCT**

3. A Member must:
  - (1) act in good faith at all times and not misuse or abuse the powers, rights and privileges granted by the Constitution and the Rules, conventions and practices of the Council;

- (2) act in the interests of the Namibian people and the Council;
- (3) uphold the law and act in conformity with the Rules, conventions and practices of the Council;
- (4) be accessible to the people in order to serve and to represent their interests conscientiously;
- (5) avoid any behaviour that may compromise his/her standing in the public arena, such as criminal behaviour, sexual harassment, insolvency, dishonesty etc.;
- (6) strive for national unity and reconciliation in the presentation of any issue before the House and take decisions in terms of the public interest;
- (7) not misrepresent any facts to the House or to committees;
- (8) conduct all hearings in a fair, honest and transparent manner;
- (9) disclose to the Registrar their financial interests;
- (10) report to the Committee on Privileges any unethical behaviour of another Member or Members; and
- (11) promote and support the afore-mentioned principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the Parliament and its members in conducting public business.

## **CHAPTER 4**

### **CONFLICT OF INTEREST**

4. (1) A Member is responsible for preventing conflicts of interest and must arrange his or her private affairs to prevent such conflicts of interest from arising;
- (2) A Member whose material, personal or financial interests give rise to a conflict with the public interest must take all reasonable steps to resolve that conflict in the public interest;

- (3) (a) A conflict of interest exists where a Member participates in or makes a decision in the execution of his or her duties when he or she knows or should know that it –
- (i) will improperly or dishonestly further his or her material, personal or financial interest or another person’s financial interest directly or indirectly, or
  - (ii) may improperly influence his or her conduct when discharging his responsibilities.
- (b) A conflict of interest does not exist where a member or other person benefits only as a member of the general public or as a member of a broad class of persons.
- (4) (a) Where a possible conflict of interest arises, the Member concerned must inform the Presiding Officer, or any other person may so inform the Presiding Officer, and the Member must then either withdraw from the discussions and voting on the matter, or apply for condonation from the House or the Committee, as the case may be, on the grounds that such interest does not in any way conflict with the matter being discussed or voted upon.
- (b) If the matter concerns a registrable interest that is recorded in the confidential part of the Register, the Member must withdraw from the deliberations or voting if the member does not want to disclose the interest.

## **CHAPTER 5**

### **INTERESTS TO BE DISCLOSED**

#### **REGISTRABLE INTERESTS**

5. The following kinds of financial interests must be registered:
- (1) Shares and other financial interests in companies and other corporate entities;

- (2) Directorships, partnerships and board memberships and any remuneration received;
- (3) Sole ownerships;
- (4) Remunerated employment outside of Parliament;
- (5) Liabilities exceeding N\$ 20 000;
- (6) Immovable property;
- (7) Accounts with financial institutions exceeding N\$ 20 000;
- (8) Travel and travel discounts;
- (9) Gifts, services and hospitality;
- (10) Sponsorships;
- (11) Consultancies;
- (12) Pensions;
- (13) Any other benefit of a material nature; and
- (14) Details of all financial interests of a Member's spouse, permanent companion, dependent child or other dependent to the extent that the member is aware of those financial interests.

## **DETAILS OF REGISTRABLE INTERESTS**

6. The following details must be furnished for all registrable interests:

- (1) Shares and other financial interests in companies and other corporate entities:
  - (a) the name of the company or other corporate entity;
  - (b) the number, nature and nominal value of shares of any type in any public or private company; and
  - (c) the nature and value of any other financial interests held in any other corporate entity.
  
- (2) Directorships, partnerships, and board memberships:
  - (a) the name, and type of business activity of the corporate entity, partnership or organization, and the date acquired; and
  - (b) the size and value of any financial interest or the amount of any remuneration received.
  
- (3) Sole ownerships:

- (a) the name, and type of business activity of the sole ownership;
  - (b) the date acquired; and
  - (c) the equity value of the sole ownership.
- (4) Remunerated employment outside of Parliament:
- (a) the type of employment; and
  - (b) the name, and type of business activity of the employer, and the amount of remuneration received for such employment.
- (5) Liabilities exceeding N\$ 20 000:
- (a) the type of liability, amount and interest rate;
  - (b) the name of the individual or entity indebted to;
  - (c) the date that the loan or liability was obtained; and
  - (d) the term of the loan or liability.
- (6) Immovable Property:
- (a) a description of the property;
  - (b) the location of the property; and
  - (c) the nature and value of the interest in the property.
- (7) Accounts exceeding N\$ 20 000 held with Financial Institutions:
- (a) the type of account;
  - (b) the name and location of institution; and
  - (c) amount.
- (8) Travel and travel discounts:
- (a) the date of travel and destination;
  - (b) the duration of stay;
  - (c) the value of travel and stay (including any discounts received);  
and
  - (c) the name of the sponsor and amount paid by the sponsor.
- (9) Gifts and hospitality (including services and discounts):



- (a) the description, value and source of any gift or hospitality over N\$ 1000; and
  - (b) the description and value of gifts or hospitality having a cumulative value over N\$1000 received from a single source during the report period.
- (10) Sponsorships:
- (a) the source and description of direct financial sponsorship and assistance from non-party sources; and
  - (b) the value of the sponsorship or assistance.
- (11) Consultancies:
- (a) the nature of the consultancy of any kind;
  - (b) the name and type of business activity of the client concerned; and
  - (c) the amount of remuneration and any other benefits received for the consultancy.
- (12) Pensions:
- (a) the source and type of pension; and
  - (b) the value of the pension.
- (13) Any other benefit of a material nature:
- (a) the nature of the benefit;
  - (b) the source of the benefit; and
  - (c) the value of the benefit.
- (14) All financial interests, of which the Member is aware, of his or her spouse, dependent child, dependent or permanent companion (1) – (3) all the financial details that a Member must disclose in respect of clauses (1) to (13) above.

## **CHAPTER 6 ADMINISTRATION OF THE CODE**

### **STANDING COMMITTEE ON PRIVILEGES**

## Functions and Powers of the Committee

7. For the purposes of this Code, the Committee on Privileges is empowered to:
- (1) adopt such codes of conduct for all Members, in conformity with their constitutional rights, duties, privileges and immunities,
  - (2) implement the Code by adopting a standard format for the disclosure of interests and the reporting requirements in regard to such disclosure
  - (3) enforce and administer the Code, and
  - (4) perform such other functions as may be determined in the Code and in the Rules of the Council.

## **REGISTRAR OF MEMBERS' INTERESTS**

8. (1) The Secretary of the Council will be the Registrar of Members' Interests.
- (2) The Registrar may designate staff assigned to the Committee to assist - him or her in the execution of his or her duties.
- (3) The Registrar must:
- (a) open and keep a Register for the purposes of this Code, called the Register of Members Interests,
  - (b) record in the Register particulars of Members' registrable interests provided to him or her by Members,
  - (c) amend any entry in the Register when necessary,
  - (d) present the register to the Privileges Committee on an annual basis,
  - (e) perform any other duties in connection with the implementation and administration of this code as required by the Committee, and
  - (f) perform the functions of office in accordance with the directions of the Committee.

## **DISCLOSURE OF REGISTRABLE INTERESTS**

9. (1) All Members of the Council upon being sworn in as members, must disclose their interest as contained in this code by signing the prescribed declaration and are obliged to adopt the principles of the code.
- (2) A member must disclose to the Registrar, on the form prescribed for this purpose by the Committee, the details of all registrable interests as stipulated in clause 6.
- (3) Subject to sub-clause 1, the first disclosure must be made within 30 days of the opening of a new Council.
- (4) After the first disclosure, members must annually disclose particulars of their registrable interests on or before 30 April each year, unless the Committee decides otherwise.
- (5) Members must, during the reporting period, disclose any change in their registrable interests within 60 days thereof.
- (6) If a member has no registrable interests a “nil return” must be furnished.
- (7) All members must, within 90 days of the approval of this Code by the House, disclose their registrable interests on the form prescribed for this purpose by the Committee.

## **THE REGISTER OF MEMBERS’ INTERESTS**

10. The Register must:

- (1) have a confidential and a public part;
- (2) contain the information regarding the members registrable interests as determined by the Code, and
- (3) be in format approved by the Committee.

## **CONFIDENTIAL PART OF THE REGISTER**

11. (1) The Registrar must record the following in the confidential part of the Register:
  - (a) The value of financial interests in a private or public company or a close corporation or in any other business entities;
  - (b) The amount of any remuneration for any directorship, partnership or any other board membership;
  - (c) The equity value of a sole ownership;
  - (d) The amount of any remuneration for any employment outside Parliament;
  - (e) The type of liability, amount and interest rate, and the term of the loan or liability,
  - (f) The value of the interest in immovable property and the location and value of private residences;
  - (g) The amount of an account with a Financial Institution;
  - (h) The details of foreign travel only when the nature of the travel or visit requires those details to be confidential;
  - (i) The amount of any remuneration for a consultancy;
  - (j) The value of a pension, and
  - (k) The financial interests of a Members' spouse, permanent companion, dependent child or other dependent to the extent that the member is aware of those financial interests.
- (2) Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned must act in good faith.
- (3) Notwithstanding sub-clause (1), the Committee may, on good cause shown, instruct the Registrar to record any other details of a Member's registrable interests in the confidential part of the register.

- (4) Only a Committee Member, the Registrar and the staff assigned to the Committee have access to the confidential part of the Register.
- (5) No person who has access to the confidential part of the Register may disclose particulars of an entry in the confidential part to anyone other than the Member concerned or another person who has access thereto, except when a competent Court orders him or her to do so.
- (6) A committee Member who contravenes sub-clause (5)
  - (a) is subject to the penalties prescribed under clause 17 (b), (c) and (d) of this Code, and
  - (b) is ineligible to continue as a Committee Member.
- (7) The Registrar or a staff member who contravenes sub-clause (5) is subject to disciplinary action applicable to parliamentary staff, including dismissal.

## **PUBLIC PART OF THE REGISTER**

12. (1) The Registrar must record all registrable interests in the public part of the Register, except for the details that will be recorded in The Confidential part of the Register.
- (2) Any person has access to the public part of the Register on a working day during office hours.
- (3) The Registrar must publish the public part of the Register within 60 days of the date set for annual disclosure in a manner determined by the committee.

## **CHAPTER 7 BREACH AND ENFORCEMENT OF THE CODE**

## **BREACH OF THE CODE**

13. A Member breaches this Code if he or she-

- (1) contravenes or fails to comply with a provision of this Code,
- (2) negligently, recklessly or intentionally provides the Registrar with incorrect or misleading information, when disclosing registrable interests.

## **COMPLAINTS PROCEDURE**

14. (1) The Committee may receive a complaint from any person alleging a breach of the Code by any Member or Members.

(2) (a) A complaint must be in writing.

(b) A complaint must be factual and must describe in detail the alleged breach of the Code.

(3) A Member may file a complaint directly or may forward a complaint received from any person to the Committee.

(4) Frivolous, vexatious or offensive complaints will be rejected.

## **INVESTIGATIONS BY THE COMMITTEE**

15. (1) The Committee may of its own accord investigate an alleged breach of this Code by a Member.

(2) The Committee, when carrying out any investigations, must act in accordance with the procedures contained in the Act and the Rules of the Council.

## **FINDINGS**

16. (1) At the conclusion of its investigation, the Committee must make a finding, supported by evidence, on the alleged breach of this Code.

(2) The Committee must provide reasons for its finding.

- (3) A Member may be found guilty of a breach only if there is sufficient evidence supporting such finding.

## **PENALTIES**

17. Where the Committee has found that a member has breached a provision of this Code, it must recommend the imposition of one or more of the penalties provided for in the Rules of the Council.

## **REPORT TO THE HOUSE**

18. (1) Within 7 days after making a finding, the Committee must submit a report to the House on its finding and recommended penalties,  
  
if any, within 7 days after making a finding, if the House is then in ordinary session, if it is not in ordinary session, within 7 days after the commencement of its next ordinary session.
- (2) The House must discuss the Committee's report and take such disciplinary action against the Member as it deems appropriate, in accordance with the penalties provided for in the Rules of the Council.
- (3) The Chairperson must act on the decision of the House without delay.