

# South Africa

1. Fair	
<b>Regulatory framework</b>	<p>Disclosure requirements are established in several pieces of legislation:</p> <p>Legislative:  <a href="#">Code of Conduct for Assembly and Permanent Council Members (Disclosure of Registrable Interest)</a>,</p> <p>Executive            1998 <a href="#">Executive Members’ Ethics Act</a>, and the 1998 <a href="#">Joint Rules of Parliament Code of Conduct</a>.</p> <p><a href="#">Civil servants</a>  <a href="#">2001 Public Service Regulations</a> establishes the financial disclosure framework for civil servants.</p>
<b>Outreach to public officials about disclosure requirement</b>	<p>The following webpage provides information on what and who must disclose for the legislative branch of government: <a href="http://www.parliament.gov.za/live/content.php?Category_ID=83">http://www.parliament.gov.za/live/content.php?Category_ID=83</a>.</p> <p>There is also a webpage with FAQ on the Code of Conduct and the implementation of the financial disclosure system: <a href="http://www.parliament.gov.za/live/content.php?Item_ID=237">http://www.parliament.gov.za/live/content.php?Item_ID=237</a></p> <p>A handbook, available only to Members of the Executive and Presiding Officers, provides detailed guidelines.</p>
<b>Type of information disclosed</b>	<p>Content of disclosures focus on both financial and business interests. Filers are required to disclose the following:</p> <ul style="list-style-type: none"> <li>• <b>Properties:</b> Movable and immovable properties (including personal residence).</li> <li>• <b>Investments:</b> Stocks and securities, and business relationships with financial institutions.</li> <li>• <b>Liabilities:</b> Applicable to members of the executive only.</li> <li>• <b>Incomes:</b> Value and sources (including pensions).</li> <li>• <b>Positions:</b> High-level positions, paid and unpaid positions (employer, value and description).</li> <li>• <b>Gifts and funded travels:</b> Value, description and source.</li> <li>• <b>Other:</b> Sponsorships received (value and source).</li> </ul>
<b>Other relevant information</b>	<p>The judiciary does not have disclosure requirements. However, the 1994 <a href="#">Code of Judicial Conduct</a> covers incompatibilities and restrictions in terms of financial interests and other positions to avoid conflict of interest.</p> <p>The Cabinet has decided to prohibit public servants from doing business with government.</p>
2. Transparent	
<b>Public accessibility of</b>	<p>Public access to the disclosure forms varies according to the category of public official. In addition, how the public can access the forms differs between the legislative and the executive.</p>

<b>disclosed information</b>	<p><b>Legislative:</b> The public has access to summaries of financial disclosure information online: <a href="http://www.parliament.gov.za/live/content.php?Item_ID=153">http://www.parliament.gov.za/live/content.php?Item_ID=153</a></p> <p>They can also access these summaries in person from the Office of the Registrar. The summarized information does include the values of the income as well as details provided by the spouse and dependent children.</p> <p><b>Executive:</b> The public can access a summarized version of the disclosure form in person from the office of the Cabinet Secretary. Confidential information not available to the public is as follows: value of stocks and securities, movable assets, liabilities, details of sponsored travel, and financial information provided by spouse and dependent children.</p> <p><b>Senior Management Service (SMS):</b> The disclosure information is confidential and not available to the public.</p>
<b>Public access to information concerning disclosure system functioning</b>	<p>The register of the disclosures of all members of the National Assembly and the National Council of Provinces is compiled and published annually.</p> <p>The Public Service Commission (PSC) submits compliance report for civil servants to Parliament on an annual basis. The reports can be found on the PSC website: <a href="http://www.psc.gov.za/documents/2009/PSC%20Fin%20Disclosure%20Repro.pdf">http://www.psc.gov.za/documents/2009/PSC%20Fin%20Disclosure%20Repro.pdf</a></p>
<b>Other relevant information</b>	<p>The <a href="#">2000 Promotion of Access to Information Act</a> states that all filers of financial disclosure forms can request full access to their disclosure form.</p>
<b>3. Targeted at senior leaders and those in at-risk positions</b>	
<b>Legislative</b>	<p>The definition of public officials required to disclose includes members from both the National Assembly and National Council of Provinces (House of Parliament) as well as spouse and dependent children.</p>
<b>Executive</b>	<p>The Cabinet (includes the President of the Republic, Deputy President, Ministers and Deputy Ministers) and Members of the Executive Council (refers to the provincial government executive) as well as their spouse and dependent children.</p>
<b>Judiciary</b>	<p>Not applicable - The judiciary is not mandated to submit financial disclosures.</p>
<b>Other</b>	<p>All members of the senior management service (SMS) must disclose. The SMS comprises of public officials at grade 13 remuneration or higher.</p>
<b>Risk-based approach to the disclosure requirement</b>	<p>The category of public officials who must disclose is determined by their level of seniority (i.e. grade 13 and above) and not necessarily specific functions.</p>
<b>Other relevant information</b>	<p>None.</p>

**4. Supported with adequate resources**

<p><b>Main agency/ agencies involved in disclosure</b></p>	<p><b>Legislative:</b> The Office of the Registrar of Members’ Interests receives the forms and prepares them for public access. The Registrar is appointed by Parliament and their staff is assigned by the Joint Committee on Ethics and Members’ Interest Secretary. Members of the Joint Committee on Ethics and Members’ Interest and the Office of the Registrar handle the queries relating to any aspect of the financial disclosure system.</p> <p><b>Executive:</b> The Secretary of the Cabinet and Secretary of the Executive Council receive the disclosures of the respective executive branches. The Secretaries can be consulted with queries regarding the financial disclosure system.</p> <p><b>SMS:</b> Executive Authorities (EAs) (which includes Ministers, Provincial Premiers and Members of the Executive) receive the financial disclosures. The EAs then submit a copy to the Public Services Commission (PSC). The PSC is made up of fourteen commissioners (five appointed by the National Assembly and nine by each of the nine provincial legislatures). Its objective is the technical oversight of the public service which includes monitoring the compliance of the financial disclosure requirements.</p>
<p><b>Other entities</b></p>	<p>None.</p>
<p><b>Other relevant information</b></p>	

**5. Useful**

<p><b>Frequency of filing requirement</b></p>	<p>SMS and the legislative branch of government must declare annually.</p> <p>Members of the executive branch, both nationally and provincially, must submit a financial disclosure on assuming office.</p>
<p><b>Validation &amp; verification</b></p>	<p><b>SMS:</b></p> <ul style="list-style-type: none"> <li>• The PSC scrutinize approximately 30% of all SMS disclosures received (carried out by 4 staff members)</li> <li>• Since 2012, the PSC has been scrutinizing 100% of the forms. To deal with the increase in work, 3 additional contract workers were appointed.</li> <li>• The scrutiny process involves verifying information relating to directorships and partnerships on the Companies and Intellectual Property Commission (CIPS) database.</li> <li>• The Deeds Registry database is also checked to verify whether a particular senior manager disclosed all his/her properties.</li> <li>• The nature of activities relating to consultancies and retainerships and worked performed by an SMS member outside of the Public Service, are used to formulate an opinion on the prevalence of potential or actual conflicts of interest.</li> <li>• All activities that an SMS member is involved in are assessed against the official activities of the particular SMS member.</li> </ul>

	<ul style="list-style-type: none"> <li>• Departmental Supplier databases are also consulted to assess whether a SMS member does business with his/her employer.</li> </ul> <p>No routine verification takes place for other branches of government.</p>
<b>Uses of disclosed information</b>	<p>Officials who have access to disclosure information of members of SMS may not, in terms of chapter 3 of the Public Service Regulations (2001), disclose such information to anyone other than:</p> <ul style="list-style-type: none"> <li>• The court of law;</li> <li>• The SMS member in respect of his/her disclosure;</li> <li>• The Director-General: Office of the PSC;</li> <li>• The Commissioners of the PSC;</li> <li>• The Executive Authority; or</li> <li>• Any other person designated for the purposed of the effective implementation of chapter 3 of the Public Service Regulations, 2001.</li> </ul>
<b>Other relevant information</b>	
<b>6. Enforceable</b>	
<b>Types of applicable sanctions</b>	<p><b>Legislative:</b> There are a range of civil and administrative sanctions applied for non-submission or false information. These include fines (max value of 30 days salary), reduction in salary and suspension from public office (max. for 15 days).</p> <p><b>Executive:</b> Sanctions applied are at the discretion of the President or the Premier (if concerning a Member of the Executive Council)</p> <p><b>SMS:</b> Disciplinary action is taken regarding non-compliance.</p>
<b>Mechanism and entities responsible for enforcing measures</b>	<p><b>Legislative:</b> The Joint Committee on Ethics and Members' Interest starts an investigation of their own accord or on the receipt of a complaint via the Office of the Registrar. They must present the findings of the investigation to the relevant House of Parliament with a recommendation of sanction. The House then decides whether or not to uphold the sanction which would be enforced by the House Speaker.</p> <p><b>Executive:</b> The Public Protector starts an investigation into non-compliance allegations and reports their findings either to the President (if national public official) or the Provincial Premier (if provincial public official). The President and Premier must then submit the findings report to the National Assembly and National Council Provinces respectively and take action as deliberated in the legislative.</p>

	<b>SMS:</b> The PSC investigates and gives recommendations to the Executive Authority which they may choose to follow or disregard. If the latter, the Executive Authority must explain its decision to the PSC.
<b>Other relevant information</b>	