



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

STATEMENT ON REPORTS THAT DENEL ESTABLISHED A JOINT VENTURE

National Treasury has noted media reports that Denel may have entered into a joint venture to form a company that will operate from a jurisdiction in Asia. The National Treasury is currently engaging directly with Denel on the matter. This statement seeks to clarify facts relating to the transaction.

President Jacob Zuma noted in a press statement issued on 11 December 2015 that “...there is no state-owned entity that can dictate to government how it should be assisted. In addition, no chairperson of a board of a state owned company has the power to tell a government Department to which the entity reports, how to support or lead them”.

The Board of a public entity commits an act of financial misconduct, where it wilfully or negligently fails to comply with the Public Finance Management Act (PFMA). The Treasury Regulations specifies that such allegations must be investigated by the Executive Authority and, if confirmed, appropriate disciplinary proceedings must be initiated.

State-owned entities are required to obtain approval from the Minister of Finance and/or Minister of Public Enterprises before establishing companies, in terms of the PFMA.

Section 54(2) states that: “*Before a public entity concludes any of the following transactions, the accounting authority for the public entity must promptly and in writing inform the relevant treasury of the transaction and submit relevant particulars of the transaction to its executive authority for approval of the transaction:*

- (a) establishment or participation in the establishment of a company;*
- (b) participation in a significant partnership, trust, unincorporated joint venture or similar arrangement;*
- (c) acquisition or disposal of a significant shareholding in a company;*
- (d) acquisition or disposal of a significant asset;*
- (e) commencement or cessation of a significant business activity; and*
- (f) a significant change in the nature or extent of its interest in a significant partnership, trust, unincorporated joint venture or similar arrangement”*





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In terms of the conditions attached to the R1.85 billion in guarantees that have been provided by government to Denel, any significant transactions that Denel enters into require the approval of both the Minister of Finance and the Minister of Public Enterprises.

Section 54(3) allows for an entity to “*assume that approval has been given if it receives no response from the executive authority ... within 30 days or within a longer period as may be agreed to between itself and the executive authority*”.

Denel submitted its application in terms of Section 54(2) on 10 December 2015. However, prior to Denel submitting its application, National Treasury had outlined the information that would be required to comprehensively assess the application. The Minister of Finance is still considering this application, and further information has been requested from Denel.

More significantly, Denel is also required to comply with Section 51(1)(g), which is unequivocal in its requirement that the Board of Denel obtain approval before establishing a company. Section 51(1)(g) requires the accounting authority of an entity to “*promptly inform the National Treasury on any new entity which that public entity intends to establish or in the establishment of which it takes the initiative, and allow the National Treasury a reasonable time to submit its decision prior to formal establishment*”. The National Treasury received a section 51(1)(g) from Denel on 10 December 2015. The application is still under consideration and no decision has yet been made.

Issued on behalf of National Treasury

Date: 13 April 2016

