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Treasury Regulations for departments, constitutional institutions and trading entities

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Public Finance Management Act, 1999**

National Treasury

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PART 1

Definitions and Application

1

General definitions and application

1.1 General definitions

In these *Treasury Regulations*, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and –

“**Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999 as amended by Act No. 29 of 1999);

“**debt**” means amounts owing to the state;

“**division of revenue grants**” refers to allocations from the national government to other spheres of government as listed in Schedules 3A, 3B and 3C of the Division of Revenue Act, 2000, including transfers in terms of section 16 of that Act;

“**executive authority**” in relation to a constitutional institution means the chairperson of the relevant constitutional institution;

“**head official of the treasury**” refers to the head of the relevant treasury;

“**institution**” refers to a department or a constitutional institution;

“**official**” means an employee contemplated in section 1 of the Public Service Act, 1994, read with section 1 of the Public Service Amendment Act (Act No. 13 of 1996); and includes a magistrate contemplated in section 1 of the Magistrates Act, 1993 (Act No. 90 of 1993) and employees of constitutional institutions;

“**transfer payments**” refer to all transfers excluding–

- (a) all division of revenue grants from the national government; and
- (b) any transfers to constitutional institutions and individuals.

1.2 Application

1.2.1 These *Treasury Regulations* apply–

- (a) to all departments and constitutional institutions; and
- (b) to the South African Revenue Service, but only to the extent–
 - (i) that it collects and administers state revenue; and
 - (ii) as agreed to between it and the national Treasury.

1.2.2 For purposes of paragraph 1.2.1(b), the *Treasury Regulations* that do apply to the South African Revenue Services, apply as though it were a department. Its Commissioner is the accounting officer.

1.2.3 These regulations do not apply to Parliament, provincial legislatures and public entities.

PART 2

Management Arrangements

2

Corporate management

2.1 Chief financial officer

- 2.1.1 Unless directed otherwise by the relevant treasury, the accounting officer of an institution must appoint an official as chief financial officer (CFO) no later than 1 April 2001, to serve on the management team of the institution.
- 2.1.2 The CFO is directly accountable to the accounting officer.
- 2.1.3 Without limiting the right of the accounting officer to assign specific responsibilities, the general responsibility of the CFO is to assist the accounting officer in discharging the duties under Part 2 of Chapter 5 of the Act.

Internal control

3.1 Audit committees [Sections 76(4)(d) and 77 of the PFMA]

- 3.1.1 The relevant treasury may determine whether departments have shared or non-shared audit committees.
- 3.1.2 In the case of a non-shared audit committee, the accounting officer of an institution must appoint audit committee members in consultation with the relevant executive authority.
- 3.1.3 In the case of a shared audit committee, the head of the relevant treasury must appoint audit committee members after consultation with the relevant executive authorities.
- 3.1.4 In addition to section 77(a)(iii) of the Act, the chairperson of the audit committee may not be a political office bearer.
- 3.1.5 Audit committees must be constituted so as to ensure their independence.
- 3.1.6 Members of an audit committee who have been appointed from outside the public service pursuant to section 77(a)(i) of the Act, must be appointed on contract and remunerated in accordance with paragraphs 20.2.2 and 20.2.3 of these *Treasury Regulations*.
- 3.1.7 The relevant executive authority has to concur with any termination of the services of a person serving on the audit committee.
- 3.1.8 The audit committee must establish an audit charter to guide the audit approach, as well as its *modus operandi*, which should spell out the rules that govern the audit relationship.
- 3.1.9 The audit committee and the accounting officer must facilitate a risk assessment to determine the material risks to which the institution may be exposed and to evaluate the strategy for managing those risks. The strategy must be used to direct audit effort and priority, and to determine the skills required to manage these risks.
- 3.1.10 The audit committee must report and make recommendations to the accounting officer, but the accounting officer retains responsibility for implementing such recommendations.
- 3.1.11 In addition to the above, the audit committee must—
 - (a) evaluate the financial statements of the institution for reasonability and accuracy; and
 - (b) report on the effectiveness of internal control in the annual report of the institution.
- 3.1.12 Should a report from internal audit (or any other source) to the audit committee implicate the accounting officer in fraud, corruption or gross negligence, the chairperson of the audit committee must promptly report this to the relevant executive authority.
- 3.1.13 The audit committee may communicate any concerns it deems necessary to the executive authority, the relevant treasury and/or the Auditor-General.

3.2 Internal controls and internal audit [Sections 38(1)(a)(i) and 76(4)(e) of the PFMA]

- 3.2.1 The accounting officer must ensure that a fraud prevention plan is developed no later than 31 March 2001.

- 3.2.2 Accounting officers must establish internal audit units for their institutions in accordance with the policy determined in terms of paragraph 3.2.3.
- 3.2.3 The relevant treasury may determine whether departments must have internal audit units and whether such units must be shared or non-shared units.
- 3.2.4 The internal audit unit may be partly or wholly contracted to an external organisation with specialist audit expertise, provided that its selection is in accordance with the government's competitive tendering procedures.
- 3.2.5 Internal audit must be conducted in accordance with the standards set by the Institute of Internal Auditors.
- 3.2.6 The internal audit unit must prepare, in consultation with and for approval by, the audit committee–
 - (a) a rolling three-year strategic internal audit plan based on its assessment of key areas of risk for the institution, having regard to its current operations, those proposed in its strategic plan and its risk management strategy;
 - (b) an annual internal audit plan for the first year of the rolling plan;
 - (c) plans indicating the proposed scope of each audit in the annual internal audit plan;
 - (d) a *modus operandi*, with management inputs, to guide the audit relationship; and
 - (e) a quarterly report to the audit committee detailing its performance against the plan, to allow effective monitoring and possible intervention.
- 3.2.7 The internal audit unit must be independent, with no limitation on its access to information.

Financial misconduct

4.1 Investigation of alleged financial misconduct [Sections 85(1)(b) and (d) of the PFMA]

- 4.1.1 If an official is alleged to have committed financial misconduct, the accounting officer of the institution must ensure that disciplinary proceedings are carried out in accordance with the relevant prescripts.
- 4.1.2 The accounting officer must ensure that the investigation is conducted within a reasonable period.
- 4.1.3 If an accounting officer is alleged to have committed financial misconduct, the relevant treasury, as soon as it becomes aware of the alleged misconduct, must ensure that the Department of Public Service and Administration initiates appropriate disciplinary proceedings against the accounting officer.
- 4.1.4 A treasury may–
 - (a) direct that an official other than an employee of the institution conducts the investigation; or
 - (b) issue any reasonable requirement regarding the way in which the investigation should be performed.

4.2 Criminal proceedings [Section 86 of the PFMA]

- 4.2.1 The accounting officer must advise the executive authority, relevant treasury and the Auditor-General of any criminal charges it has laid against any person in terms of section 86 of the Act.
- 4.2.2 The relevant treasury may direct an institution to lay charges of criminal financial misconduct against any person should an accounting officer fail to take appropriate action.

4.3 Reporting [Section 85(1)(a) and (e) of the PFMA]

- 4.3.1 The accounting officer must, as soon as the disciplinary hearings are completed, report to the executive authority, the Department of Public Service and Administration and the Public Service Commission on the outcome, including–
 - (a) the name and rank of the official against whom proceedings are instituted;
 - (b) the disciplinary charges, indicating the financial misconduct the official is alleged to have committed;
 - (c) the findings of the disciplinary hearing;
 - (d) any sanction imposed on the official; and
 - (e) any further action to be taken against the official, including criminal charges or civil proceedings.
- 4.3.2 The institution must inform the executive authority, the relevant treasury, the Department of Public Service and Administration and the Public Service Commission of the outcome

of any criminal proceedings instituted against any person for financial misconduct in terms of section 86 of the Act.

4.3.3 The accounting officer must, on an annual basis, submit to the provincial treasury (if applicable), national treasury and Auditor-General a schedule of–

- (a) the name and rank of officials facing disciplinary hearings or criminal charges;
- (b) the outcome of any disciplinary hearings and/or criminal charges; and
- (c) the sanctions and any further action taken against the relevant official;

Such a report must refer to any changes to the institution's systems of financial and risk management or any other matter dealt with in the Act, as a result of the investigation.

PART 3

Planning and Budgeting

5

Strategic planning

5.1 Date of implementation

- 5.1.1 This chapter takes effect from 1 April 2002. The first date for submission of strategic plans is 30 June 2001 for the MTEF period commencing 1 April 2002. Quarterly reports on performance take effect from 30 June 2002, starting with a report on the first quarter of the 2002/03 financial year.

5.2 Strategic plans

- 5.2.1 The accounting officer of an institution must prepare a strategic plan for the forthcoming Medium Term Expenditure Framework (MTEF) period, for approval by the relevant executive authority.
- 5.2.2 The approved strategic plan must be forwarded to the relevant treasury no later than 30 June each year.
- 5.2.3 The strategic plan must–
- (a) cover a period of three years and be consistent with the institution's input to the MTEF;
 - (b) include the programme objectives and outcomes identified by the executive authority, as well as the Service Delivery Improvement Programme;
 - (c) include the multi-year projections of revenue and expenditure for the forthcoming budget;
 - (d) include the key performance measures and key indicators of the Service Delivery Improvement Programme for assessing the institution's performance in delivering the desired outcomes and objectives;
 - (e) be updated annually on a rolling basis;
 - (f) for departments, include the requirements of Chapter 1, Part III B of the *Public Service Regulations, 1999*; and
 - (g) form the basis for the annual reports of accounting officers in terms of section 40(1)(d) and (e) of the Act.

5.3 Evaluation of performance [Section 27(4) read with 36(5) of the PFMA]

- 5.3.1 The accounting officer of an institution must establish procedures for quarterly reporting to facilitate effective performance monitoring, evaluation and corrective action.
- 5.3.2 The accounting officer must issue quarterly reports to the executive authority no later than 15 days after the end of each quarter.

Budgeting and related matters

6.1 Annual budget circular

- 6.1.1 The accounting officer of a department must comply with any annual budget circulars issued by the relevant treasury. Budget circulars issued by provincial treasuries must be consistent with any budget circular issued by the national Treasury to provincial treasuries.
- 6.1.2 The accounting officer of a constitutional institution must submit all submissions for a budget via the accounting officer of the department transferring funds to that constitutional institution.
- 6.1.3 The accounting officer of a department must ensure that all budget submissions of constitutional institutions and any public entities receiving transfers via the department, are included in his/her department's budget submission, unless exempted by the relevant treasury.

6.2 Formats for Estimates of Expenditure and Departmental Revenue [Section 27(3) of the PFMA]

- 6.2.1 The Estimates of Expenditure and Departmental Revenue presented to Parliament or a provincial legislature must conform to the formats determined by the national Treasury.

6.3 Virement [Section 44 of the PFMA]

- 6.3.1 For purposes of section 43(1) of the Act–
 - (a) personnel expenditure and transfers by departments may not be increased without prior approval of the relevant treasury; and
 - (b) allocations earmarked by the relevant treasury may not be used for other purposes except with the relevant treasury's approval.

6.4 Rollovers

- 6.4.1 Funds appropriated but not spent in a particular financial year may be rolled over to a subsequent year subject to the following conditions or limitations–
 - (a) *Capital expenditure*: Unspent funds on capital expenditure may only be rolled over to finalise projects still in progress or for other capital purposes.
 - (b) *Transfer payments*: Savings on transfer payments may not be rolled over for purposes other than originally voted for.
 - (c) *Current expenditure*: A maximum of five per cent of a department's current expenditure in the main estimate of expenditure may be rolled over.
- 6.4.2 Requests for rollovers must be submitted to the relevant treasury on or before the last working day of May each year, in a format determined by the national Treasury.

- 6.4.3 The relevant treasury may deny all or part of a request for a rollover if this request does not conform to the arrangements in paragraphs 6.4.1 and 6.4.2 or if circumstances warrant such a denial.

6.5 Transfer of functions [Section 42 of the PFMA]

- 6.5.1 Where a function is to be transferred by a department during a financial year, the relevant treasury must be consulted in advance, to facilitate any request for the resulting transfer of funds voted for that function in terms of section 33 of the Act.
- 6.5.2 Should the Minister of Public Service and Administration or a Premier of a province make a determination regarding the transfer of a function in terms of the Public Service Act, 1994, that determination must accompany a request for the transfer of funds as per paragraph 6.5.1. Should the Minister of Public Service and Administration or a Premier approve a function transfer after the finalisation of the adjustments estimates, it must be dealt with on a recoverable basis.
- 6.5.3 Before seeking formal approval from the Minister of Public Service and Administration or the Premier of a province for any transfer of functions to another sphere of government, the transferring accounting officer must first seek the approval of the relevant treasury on any funding arrangements.

6.6 Additional funds through an adjustments budget [Section 31 of the PFMA]

- 6.6.1 For purposes of an adjustments budget, the following will not be considered unforeseeable and unavoidable expenditure–
- (a) expenditure that, although known when finalising the estimates of expenditure, could not be accommodated within allocations;
 - (b) tariff adjustments and price increases; and
 - (c) extensions of existing services and the creation of new services that are not unforeseeable and unavoidable.
- 6.6.2 The department requesting additional funds through an adjustments budget must submit a memorandum to the relevant treasury, the Cabinet/EXCO Secretariat and any treasury subcommittee of the Cabinet/EXCO, on a date determined by the relevant treasury.

PART 4

Revenue and Expenditure Management

7

Revenue management

7.1 Application of these *Treasury Regulations*

- 7.1.1 The *Treasury Regulations* in this chapter apply to the identification, collection, recording and safeguarding of all revenue for which an institution is responsible.

7.2 Responsibility for revenue management

- 7.2.1 The accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, safeguarding, recording and reconciliation of information about revenue.

7.3 Services rendered by the state

- 7.3.1 The accounting officer of an institution must review, at least annually when finalising the budget, all fees, charges or the rates, scales or tariffs of fees and charges that are not, or cannot, be fixed by any law and that relate to revenue accruing to a fund. The accounting officer must obtain approval from the relevant treasury for the proposed tariff structure.
- 7.3.2 Information on the tariff policy must be disclosed in the annual report, including information on any free service(s) rendered, but not taken into account in the budget and which could have yielded significant revenue.

Expenditure management

8.1 Responsibility of the accounting officer [Section 76(4)(b) of the PFMA]

8.1.1 The accounting officer of an institution must ensure that internal procedures and internal control measures are in place for payment approval and processing.

8.2 Approval of expenditure [Section 38(1)(f) and 76(4)(b) of the PFMA]

8.2.1 An official of an institution may not spend or commit public money except with the approval (either in writing or by duly authorised electronic means) of a properly delegated or authorised officer.

8.2.2 Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure that any limitations or conditions attached to the delegation or authorisation are complied with.

8.2.3 Unless determined otherwise in a contract or other agreement, all payments due to creditors must be settled within 30 days from date of statement and, in the case of civil claims, from the date of settlement or court judgement.

8.3 Personnel costs [Section 76(4)(b) of the PFMA]

8.3.1 Activities relating to the authorisation of appointments, the authorisation of payments and the recording of those payments may not be performed by the same person.

8.3.2 The accounting officer of an institution must ensure that the personnel cost of all appointees, as well as promotion and salary increases, can be met within the budgetary allocation of the institution.

8.3.3 Unless otherwise determined by the national Treasury, personnel are divided into the following groups for the payment of salaries–

- (a) *Group A*: Persons who must be paid on the 15th day of the month, or if it is not a working day, on the last working day preceding the 15th. These include–
 - (i) persons appointed permanently on the fixed establishment and employed in terms of the Public Service Act, 1994; and
 - (ii) persons appointed on contract.
- (b) *Group B*: This group represents personnel paid on the last working day of the month and includes temporary and part-time staff, and persons appointed on probation.

8.4 Division of Revenue grants [Section 38(1)(i) of the PFMA]

8.4.1 Accounting officers of departments making or receiving grants to or from other spheres of government in terms of the annual Division of Revenue Act must comply with the reporting requirements of that Act.

8.5 Transfer payments (excluding Division of Revenue grants) [Section 38(1)(j) of the PFMA]

- 8.5.1 Processes for transfer payments must ensure compliance with all relevant legislation and government policies, and provide for the identification, approval, payment and recording of transfer payment expenses.
- 8.5.2 The accounting officer of any institution transferring funds not covered by the annual Division of Revenue Act, and where the transfer is not to an individual, constitutional institution, public entity or an institution audited by the Office of the Auditor-General, must ensure that the institution receiving the grant submits with its certificate of compliance in terms of section 38(1)(j) of the Act, the most recent audited statement and any annual report, before any funds are transferred. An accounting officer transferring funds to a school, hospital or clinic may delay implementation of this clause, if applicable, but no later than 31 January 2001.
- 8.5.3 Approving transfer payment expenses includes–
 - (a) incurring a transfer payment expense for authorised purposes only; and
 - (b) ensuring that–
 - (i) the beneficiary complied with the conditions, if any, attached to the previous year's assistance;
 - (ii) continued assistance and financial aid are still necessary;
 - (iii) the agreed objectives were attained; and
 - (iv) the transfer payment expense provides reasonable value for money in procuring programmes related to the functional responsibility of the department.
- 8.5.4 A transfer payment must not be made unless and until–
 - (a) proper assurance has been obtained that the payment is valid and the amount is correct; and
 - (b) the department has made adequate cash management arrangements.

8.6 Charging of expenditure against a particular vote or main division of a vote [Section 76(2)(b) of the PFMA]

- 8.6.1 Should a dispute arise over which vote or main division of a vote should be charged with any particular expenditure, the relevant treasury must settle the dispute and determine the vote or main division against which the expenditure must be charged.

8.7 Cancellation and variation of contracts [Section 76(1)(g) of the PFMA]

- 8.7.1 No contract (excluding personnel contracts) may be cancelled or changed to the detriment of the state without the prior approval of the relevant treasury.

Unauthorised, irregular, fruitless and wasteful expenditure

9.1 General [Sections 38(1)(g) and 76(2)(e) of the PFMA]

- 9.1.1 The accounting officer of a department must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.
- 9.1.2 When an official of a department discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. Such expenditure must also be reported in the monthly report, as required by section 40(4)(b) of the Act. Where irregular expenditure occurred in contravention of tender procedures, the relevant tender board must also be notified.
- 9.1.3 When an accounting officer determines the appropriateness of disciplinary steps against an official in terms of section 38(1)(g) of the Act, the accounting officer must take into account–
- (a) the circumstances of the transgression;
 - (b) the extent of the expenditure involved; and
 - (c) the nature and seriousness of the transgression.
- 9.1.4 The recovery of losses or damages resulting from unauthorised, irregular or fruitless and wasteful expenditure must be dealt with in accordance with Chapter 12 of these *Treasury Regulations*.
- 9.1.5 The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.

PART 5

Asset and Liability Management

10

Asset management

10.1 Responsibility for asset management [Section 38(1)(d) of the PFMA]

- 10.1.1 The accounting officer of an institution must take full responsibility and ensure that proper control systems exist for assets and that—
- (a) preventative mechanisms are in place to eliminate theft, losses, wastage and misuse; and
 - (b) stock levels are at an optimum and economical level.
- 10.1.2 The accounting officer must ensure that processes (whether manual or electronic) and procedures are in place for the effective, efficient, economical and transparent use of the institution's assets.

10.2 Disposal and letting of assets [Section 76(1)(k) of the PFMA]

- 10.2.1 Disposal of movable assets must be at book value or by tender or auction, whichever is most advantageous to the state, unless determined otherwise by the relevant treasury.
- 10.2.2 Any sale of immovable state property must be at market value, unless the relevant treasury approves otherwise.
- 10.2.3 The letting of immovable state property must be at market-related tariffs, unless the relevant treasury approves otherwise. No state property may be let free of charge without the prior approval of the relevant treasury.
- 10.2.4 The accounting officer must review, at least annually when finalising the budget, all fees, charges, rates, tariffs or scales of fees or other charges relating to the letting of state property to ensure sound financial planning and management.

10.3 Assets accruing to the state by operation of any law [Section 76(2)(i) of the PFMA]

- 10.3.1 Where any money, property or right accrues to the state by operation of law (*bona vacantia*), the responsible executive authority may exercise all powers, authority and prerogatives, and fulfil any obligation on behalf of the state.

Management of debtors

11.1 Application of these *Treasury Regulations*

11.1.1 The *Treasury Regulations* in this chapter apply to all debts accruing to an institution and include any amount owing to or receivable by the institution, such as accounts for charges for goods or services, fees or fines outstanding.

11.2 Responsibility for management of debtors [Section 38(1)(c)(i) and (d) of the PFMA]

11.2.1 The accounting officer of an institution must take effective and appropriate steps to collect all money due to the institution including, as necessary–

- (a) maintenance of proper accounts and records for all debtors, including amounts received in part payment; and
- (b) referral of a matter to the State Attorney, where economical, to consider a legal demand and possible legal proceedings in a court of law.

11.3 Recovery of debts by instalments

11.3.1 Unless otherwise determined by law or agreement, debts owing to the state may, at the discretion of the accounting officer of the institution, be recovered in instalments.

11.4 Writing off of debts owing to the state [Sections 76(1)(e) and 76(4)(a) of the PFMA]

11.4.1 Any debt written off by the accounting officer must–

- (a) only be written off after all reasonable steps have been taken to recover the debt, in accordance with a policy determined by the accounting officer, and the accounting officer has convinced himself/herself that–
 - (i) recovery of the debt would be uneconomical;
 - (ii) recovery would cause undue hardship to the debtor or his/her dependants; and
 - (iii) it would be to the advantage of the state to effect a settlement of its claim or to waive the claim.
- (b) be disclosed in the annual financial statements, indicating the policy in terms of which the debt was written off.

11.5 Interest payable on debts to the state [Section 80 of the PFMA]

11.5.1 Interest must be charged on all debts to the state at the interest rate provided for in terms of section 80 of the Act.

12

Management of losses and claims

12.1 General

- 12.1.1 Subject to the provisions of these *Treasury Regulations*, or any other legislation or agreement, the state will bear its own damages and accident risks and be responsible for all claims and losses of state property where these arise from state activities by an official who is liable in law and who is or was employed by an institution to which these *Treasury Regulations* apply.
- 12.1.2 Notwithstanding the above paragraph, the accounting officer of an institution may (if deemed economical and based on a risk assessment) insure motor vehicles or such other movable assets determined by the relevant treasury, but the insurance premium cost may not exceed R250 000 a year on that vote, unless otherwise approved by the relevant treasury.

12.2 Claims against the state through acts or omissions [Section 76(1)(h) of the PFMA]

- 12.2.1 An institution may accept liability for any loss or damage suffered by another person, as for a claim against the state, which arose from an act or omission of an official, provided–
- (a) the act or omission was the cause of the loss, damage or reason for the claim;
 - (b) the act or omission did not involve the use of alcohol or drugs;
 - (c) the official acted in the course of his or her employment;
 - (d) the official did not fail to comply with or ignore standing instructions, of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim, excluding losses and damages arising from the use of a state vehicle; and
 - (e) in the case of a loss, damage or claim arising from the use of a state vehicle, the official–
 - (i) used the vehicle with authorisation for official purposes;
 - (ii) possesses a valid driver’s licence or other appropriate licence;
 - (iii) used the vehicle in the interest of the state;
 - (iv) did not allow unauthorised persons to handle the vehicle;
 - (v) did not deviate materially from the official journey or route without prior authorisation; and
 - (vi) did not, without prior consultation with the State Attorney, make an admission that was detrimental to the state.
- 12.2.2 If in doubt, the accounting officer of the institution must consult the State Attorney on questions of law on the implementation of paragraph 12.2.1.
- 12.2.3 Except when an institution has accepted liability in terms of paragraph 12.2.1, an amount paid by the institution for losses, damages or claims arising from an act or omission of an

official must be recovered from the official concerned if the official is liable in law to compensate the institution.

- 12.2.4 The State Attorney may only obligate the funds of an institution with the prior written approval of the accounting officer.

12.3 Claims by the state against other persons

- 12.3.1 If the state suffers a loss or damage and the other person denies liability, the accounting officer must, if deemed economical, refer the matter to the State Attorney for legal action.

12.4 Claims by officials against the state

- 12.4.1 If an official sustains a loss or damage in the execution of official duties and is not compensated, the accounting officer may make good the loss or damage provided that the official can prove such loss or damage.

12.5 Losses or damages through criminal acts or omissions [Section 76(1)(f) of the PFMA]

- 12.5.1 When it appears that the state has suffered losses or damages through criminal acts or possible criminal acts, the matter must be reported, in writing, to the accounting officer and the South African Police Service. In the case of omissions, the matter must be reported, in writing, to the accounting officer. Whether or not the person is still in the employ of the state, the accounting officer must recover the value of the loss or damage from the person responsible.
- 12.5.2 The accounting officer may write off losses or damages arising from criminal acts or omissions if, after a thorough investigation, it is found that the loss or damage is irrecoverable.

12.6 Losses and damages through *vis major* and other unavoidable causes [Section 76(1)(e) of the PFMA]

- 12.6.1 The accounting officer may write off losses and damages that result from *vis major* and other unavoidable causes.

12.7 Recovery of losses and damages [Sections 76(1)(b) and 76(4)(a) of the PFMA]

- 12.7.1 Losses or damages suffered by an institution because of an act committed or omitted by an official, must be recovered from such an official if he or she is liable in law.
- 12.7.2 The accounting officer must determine the amount of the loss or damage and, in writing, request that official to pay the amount within 30 days or in reasonable instalments. If the official fails to comply with the request, the matter must be handed to the State Attorney for the recovery of the loss or damage.
- 12.7.3 A claim against an official may be waived if the conditions in paragraph 12.2.1(b) to (e) are met.
- 12.7.4 If in doubt, the accounting officer of the institution must consult the State Attorney on questions of law in the implementation of paragraphs 12.7.1 and 12.7.3.

Loans, guarantees and other commitments

13.1 General [Section 66 of the PFMA]

- 13.1.1 The executive authority of a provincial department may not issue a guarantee, security or indemnity that may bind the provincial revenue fund, except with the prior written approval of the relevant MEC for finance.
- 13.1.2 The accounting officer of a department must ensure that no official in that department or any other person borrows money on behalf of that department, or issues an unauthorised guarantee, security or indemnity. The accounting officer must ensure that misconduct and criminal proceedings are instituted against any person responsible for transgressions with regard to borrowings, guarantees, securities or indemnities.
- 13.1.3 Should the accounting officer be responsible for transgressions with regard to borrowings, guarantees, securities or indemnities, the treasury must initiate misconduct and criminal proceedings against the accounting officer as soon as it becomes aware of the transgression.
- 13.1.4 The accounting officer must report on all contingent liabilities of his or her department in its annual report.
- 13.1.5 The provisions in this chapter do not preclude the use of credit cards, fleet management cards or other credit facilities repayable within 30 days from the date of statement .

13.2 Provinces

- 13.2.1 The MEC for finance may raise funds during a financial year for bridging purposes. All bridging finance raised during a financial year must be repaid within 30 days after the end of the financial year.

Money and property held in trust

14.1 General

14.1.1 The provisions of Chapter 15 are not applicable to the management of trust money.

14.2 Responsibility for trust money and property [Section 76(1)(c) of the PFMA]

14.2.1 For purposes of these *Treasury Regulations*, trust money or property is money or property held by an institution on behalf of other persons or entities in terms of a deed of trust or equivalent instrument that details the specific purposes for which it may be used.

14.2.2 The accounting officer, through the chief financial officer or a duly authorised agent, is responsible for the safekeeping and proper use of trust money and property, in accordance with the relevant deed of trust or equivalent instrument.

14.2.3 The institution, or its duly authorised agent, may charge a fee for the administration of a trust account at rates approved by the board of trustees or, in its absence, by the relevant treasury. Such fees shall be payable from the trust account and are revenue accruing to the relevant revenue fund.

14.3 Trust money must be kept in a trust account

14.3.1 The accounting officer must, for each separate portion of trust money—

- (a) open and maintain a separate bank account, called a trust account;
- (b) assign the trust account a name or title that clearly identifies the account;
- (c) maintain separate accounting records for each trust account, of the transactions, including investment transactions, undertaken; and
- (d) annually prepare separate financial statements in accordance with paragraph 18.4.

14.4 Investment of trust money

14.4.1 The accounting officer may, provided that it does not conflict with the terms of the trust arrangement, invest any trust money on such terms and conditions as may seem appropriate—

- (a) on deposit with any bank within or outside South Africa as approved by the national Treasury;
- (b) in public securities issued by the government; or
- (c) in other securities approved by the national Treasury.

14.4.2 The proceeds of an investment, including interest and realised capital gains, and all money received from the realisation, sale or conversion of securities, shall be treated as money of the trust on whose behalf the money was invested.

PART 6

Frameworks

15

Banking, cash management and investment

15.1 Control of the national and provincial revenue funds [Sections 11 and 21 of the PFMA]

- 15.1.1 Each treasury is responsible for the effective and efficient management of its revenue fund.
- 15.1.2 Each treasury must ensure that the revenue fund at all times has sufficient money for appropriated expenditure and direct charges to meet the progressive cash flow requirements.
- 15.1.3 Each revenue fund consists, at any point in time, of all cash balances of the fund, derived from the relevant treasury's operating, investing and financing activities.

15.2 Bank account configuration [Sections 7 and 21 of the PFMA]

- 15.2.1 The bank account configuration for the National Revenue Fund comprises an Exchequer bank account, a Paymaster-General bank account with the South African Reserve Bank, the four tax and loan accounts with commercial banks, and any other bank account opened to facilitate the management of the National Revenue Fund. The national Treasury may open additional accounts on such terms and conditions as it may determine.
- 15.2.2 Each provincial revenue fund must have a bank account configuration that consists of at least an Exchequer bank account and a Paymaster-General bank account, opened with a commercial bank.
- 15.2.3 If the accounting for a department necessitates a separate bank account, the relevant treasury may approve one subaccount within the Paymaster-General account of the relevant revenue fund. Such subaccounts remain an integral part of the bank account configuration of the relevant revenue fund.

15.3 Deposits into the revenue funds [Sections 13 and 22 of the PFMA]

- 15.3.1 In terms of sections 11(3) and 21(2) of the Act, money is paid into a revenue fund by depositing it into a bank account in accordance with the configuration requirements prescribed above.
- 15.3.2 Money deposited into the Paymaster-General account must immediately be available to the relevant treasury for funding expenditure or investment according to its central cash management responsibilities.

15.4 Responsibilities of the South African Revenue Service [Section 12 of the PFMA]

- 15.4.1 The South African Revenue Service must supply the relevant treasury with an annual revenue projection no later than the 10th working day of March preceding the start of the financial year. It must also submit an updated monthly revenue projection for the remainder of the year, no later than the 15th working day of each month.
- 15.4.2 For purposes of section 12 of the Act, the South African Revenue Service must implement measures to ensure that all taxes, levies, duties, fees and other money due to and collected by it for a revenue fund are accounted for and deposited daily into the relevant fund. The relevant treasury must be informed daily of such revenue and its standard revenue classifications.

15.5 Responsibilities of departments [Sections 13 and 22 of the PFMA]

- 15.5.1 All revenue received by a department must be paid daily into its Paymaster-General account or, for amounts less than R500, as soon as practicable. This revenue must be paid into the relevant revenue fund by the last working day of the month.
- 15.5.2 Money collected by a department, which is not classified as revenue, must be paid into the department's Paymaster-General account and accounted for in its ledger. This includes money received for agency services provided to another department.

15.6 Withdrawals from and investments in revenue funds [Sections 7(4) and 24(3) of the PFMA]

- 15.6.1 Provincial treasuries may, in accordance with section 24 of the Act, temporarily invest surplus money in the provincial revenue fund in an account in South Africa, approved as part of the bank account configuration of the fund.

15.7 Requisitioning of funds by departments

- 15.7.1 When requesting the transfer of appropriated funds, accounting officers of national departments must submit such requisitions to the national Treasury, in accordance with approved cash flow estimates, at least four full working days before the end of the month preceding the month in which the funds are required. Provincial treasuries may determine their own time-scales in this regard.
- 15.7.2 Provincial treasuries will receive their grants from the National Revenue Fund in accordance with the payment schedule determined in terms of the annual Division of Revenue Act.

15.8 Surrender of voted surplus funds

- 15.8.1 At the end of each financial year, and after the books of account of a department have been closed, the accounting officer must surrender to the relevant treasury any unexpended voted money, for redepositing into the Exchequer bank account of the relevant revenue fund.

15.9 Accounting and reporting

- 15.9.1 Each treasury must account daily for the cash movements of all bank accounts in the books of its revenue fund.
- 15.9.2 Every month, each treasury must report on its revenue fund to the Minister or MEC for finance.

15.10 Banking and cash management

15.10.1 General [Sections 7 and 21 of the PFMA]

- 15.10.1.1 The accounting officer, through the chief financial officer, is responsible for establishing systems, procedures, processes and training and awareness programmes to ensure efficient and effective banking and cash management.
- 15.10.1.2 For purposes of these *Treasury Regulations*, sound cash management includes–
- (a) collecting revenue when it is due and banking it promptly;
 - (b) making payments, including transfers to other levels of government and non-government entities, no earlier than necessary, with due regard for efficient, effective and economical programme delivery and the government's normal terms for account payments;
 - (c) avoiding prepayments for goods or services (i.e. payments in advance of the receipt of the goods or services), unless required by the contractual arrangements with the supplier;
 - (d) accepting discounts to effect early payment only when the payment has been included in the monthly cash flow estimates provided to the relevant treasury;
 - (e) pursuing debtors with appropriate sensitivity and rigour to ensure that amounts receivable by the government are collected and banked promptly;
 - (f) accurately forecasting the institution's cash flow requirements so that the national Treasury can optimise its central cash management responsibilities on behalf of the government;
 - (g) timing the in- and outflow of cash;
 - (h) recognising the time value of money, i.e. economically, efficiently and effectively managing cash; and
 - (i) taking any other action that avoids locking up money unnecessarily and inefficiently, such as managing inventories to the minimum level necessary for efficient and effective programme delivery, and selling surplus or underutilised assets.

15.10.2 Systems, accounting records, procedures and monitoring

- 15.10.2.1 The chief financial officer must ensure that the institution's systems, records and statements of procedures can meet the purposes of sound cash management.
- 15.10.2.2 The chief financial officer must monitor the institution's cash management performance on a regular basis and report to the accounting officer, in writing, at least monthly.

15.10.3 Banking arrangements [Section 7(2) of the PFMA]

- 15.10.3.1 Institutions may not open a bank account without the written approval of the relevant treasury and previous approvals continue to apply unless revoked.

15.11 Private money, private bank accounts and cashing private cheques

- 15.11.1 Private money may not be deposited into an official bank account, except in accordance with the provisions relating to money held in trust for other persons or bodies, nor may state money be paid into a private bank account.
- 15.11.2 The safekeeping of private money or personal possessions in a state safe or strongroom is prohibited. However, an accounting officer or an official authorised by the accounting officer may approve arrangements for safeguarding personal effects reasonably held on official premises in the course of official duty (e.g. by providing lockable rooms for staff).
- 15.11.3 State money may not be used to cash private cheques.

15.12 Warrant vouchers, cheques and electronic payments
[Section 76(2)(h) of the PFMA]

- 15.12.1 Accounting officers of departments must assign authority in writing to officials to approve warrant vouchers, cheques or electronic payments.
- 15.12.2 Only authorised officials may sign hand-drawn vouchers or cheques and must initial the counterfoils.
- 15.12.3 All payments in excess of R10 000 must be effected electronically unless otherwise approved by the relevant treasury.
- 15.12.4 All warrant vouchers and cheques must have at least a crossing of “NOT NEGOTIABLE” between parallel lines. The cancellation of such a crossing is not permitted.
- 15.12.5 When an issued warrant voucher or cheque is lost, stolen or damaged, an instruction to stop payment must immediately be issued to the responsible bank. Once confirmation has been received that the cheque was stopped, the transaction must be reversed and a new warrant voucher or cheque issued and accounted for.

16

Public-private partnerships

16.1 Definitions

“affordable”, in relation to a public-private partnership (PPP) agreement, means that the financial commitments to be incurred by an institution in terms of the agreement can be met by funds–

- (a) designated within the institution’s existing budget for the institutional function to which the agreement relates; and
- (b) destined for the institution in accordance with the relevant treasury’s future budgetary projections for the institution.

“institutional function” means–

- (a) a service, task, assignment or other function that an institution performs–
 - (i) in the public interest; or
 - (ii) on behalf of the public service generally; or
- (b) any part or component of, or in support of, such a service, task, assignment or other function;
- (c) but excludes a service, task, assignment or other function that is not of an ongoing nature.

“net cost”, in relation to an institutional function, means the full accounting cost of performing the function, less any charges or fees collected from users and from consumers for services provided to them in performing the function.

“private party”, in relation to a PPP agreement, means a party to a PPP agreement other than–

- (a) an institution to which the Act applies;
- (b) a municipality or an enterprise or other entity controlled by one or more municipalities; or
- (c) the accounting officer, accounting authority or other person or body acting on behalf of an institution, municipality, enterprise or entity referred to in paragraph (a) or (b).

“public-private partnership agreement” means an agreement between an institution and a private party in terms of which–

- (a) the private party undertakes to perform an institutional function on behalf of the institution for a specified or indefinite time;
- (b) the private party receives a benefit for performing the function, either by way of:
 - (i) compensation from a revenue fund;
 - (ii) charges or fees collected by the private party from users or customers of a service provided to them; or
 - (iii) a combination of such compensation and such charges or fees;
- (c) the private party is generally liable for the risks arising from the performance of the function, subject to paragraph 16.13.1; and
- (d) depending on the specifics of the agreement, state facilities, equipment or other state resources may be transferred or made available to the private party.

The definition excludes an agreement or category of agreements exempted by the national Treasury in terms of clause 16.12.

“**public sector comparator**” means an estimate of the net cost of performing an institutional function in accordance with methods employed and subject to conditions prevailing at the institution concerned.

“**value for money**” means that the provision of the institutional function by a private party in terms of the public-private partnership agreement results in a net benefit to the institution, defined in terms of cost, price, quality, quantity, or risk transfer, or a combination thereof.

16.2 General responsibilities of accounting officers

- 16.2.1 The accounting officer is responsible for ensuring that the institution complies with these *Treasury Regulations* and, to this end, for implementing systems and procedures that—
- (a) are open, competitive and transparent; and
 - (b) provide safeguards against favouritism, improper practices and opportunities for fraud, theft and corruption.

16.3 Exclusive competency of accounting officers

- 16.3.1 Only an accounting officer may enter into a PPP agreement on behalf of the institution.

16.4 Treasury approval

- 16.4.1 The accounting officer may not enter into a PPP agreement without the prior written approval of—
- (a) the national Treasury; or
 - (b) the relevant provincial treasury, if it is a provincial institution and the national Treasury has, in terms of section 10(1)(b) of the Act, delegated the appropriate powers to the provincial treasury.
- 16.4.2 The relevant treasury may give such approval only if it is satisfied that the proposed PPP agreement will—
- (a) provide value for money;
 - (b) be affordable for the institution; and
 - (c) transfer appropriate technical, operational and financial risk to the private party.
- 16.4.3 When a provincial treasury gives such approval, it must exercise its delegated powers subject to any limitations and qualifications in terms of the national Treasury’s delegation.

16.5 Feasibility analysis

- 16.5.1 To determine whether a proposed PPP agreement is in the best interests of an institution, the accounting officer must prepare a feasibility analysis that—
- (a) explains the strategic and operational benefits of the PPP agreement for the institution in terms of the institution’s strategic objectives and government policy;
 - (b) describes in specific terms—
 - (i) the nature of the institutional function concerned;
 - (ii) the extent to which this function, both legally and by nature, can be performed by a private party in terms of a PPP agreement; and
 - (iii) what other forms of PPP agreement were considered, and how the proposed form was selected;

- (c) assesses whether the agreement will–
 - (i) provide value for money;
 - (ii) be affordable for the institution; and
 - (iii) transfer appropriate technical, operational and financial risk to the private party.
 - (d) includes any relevant information, figures and the economic criteria used to justify these assessments; and
 - (e) explains the capacity of the institution to effectively enforce the agreement, including to monitor and regulate implementation of and performance in terms of the agreement.
- 16.5.2 If an institution lacks the expertise to assess value for money and affordability or to interpret any PPP agreement offered to it by a private party, the accounting officer of the institution–
- (a) must inform the relevant treasury accordingly; and
 - (b) if the relevant treasury so requests, must appoint a specialist consultant for this purpose.

16.6 Submission to obtain treasury approval

- 16.6.1 If the feasibility analysis indicates that a PPP agreement will be in the best interests of the institution, and the institution intends to procure the agreement, the accounting officer must apply for approval from the relevant treasury in terms of clause 16.4.
- 16.6.2 The application must be accompanied by the feasibility analysis, submitted in the following format–
- (a) Part I should contain a brief “sector needs analysis” and priority ranking of the PPP agreement being proposed on the basis of this analysis;
 - (b) Part II should demonstrate value for money, affordability, and risk transfer; and
 - (c) Part III should contain the main terms of the proposed agreement to be signed with the private party and the institutional arrangements for monitoring and enforcing these terms.

16.7 Procurement [Section 76(4) of the PFMA]

- 16.7.1 An institution may not proceed with the procurement of a PPP agreement unless it has obtained written treasury approval in terms of clause 16.4.
- 16.7.2 A PPP agreement must be procured in accordance with applicable procurement legislation.
- 16.7.3 The procurement procedure must include–
- (a) an open and transparent pre-qualification process;
 - (b) a competitive bidding process in which only pre-qualified organisations may participate; and
 - (c) criteria for the evaluation of bids to identify the bid that represents the best value for money.
- 16.7.4 The procurement procedure may include–
- (a) a preference for categories of bidders, such as persons disadvantaged by unfair discrimination, provided that this does not compromise the value for money requirement; and

- (b) incentives for recognising and rewarding genuine innovators in the case of unsolicited proposals, provided that these incentives do not compromise the competitive bidding process.

16.8 Contracting public-private partnership agreements

- 16.8.1 Before the accounting officer of an institution enters into a PPP agreement, he or she must–
- (a) obtain relevant treasury approval for all budgetary commitments; and
 - (b) ensure that the financial commitments in terms of the agreement:
 - (i) are denominated in rand; and
 - (ii) will not be affected by fluctuations in the value of the rand against other currencies.

16.9 Management of public-private partnership agreements

- 16.9.1 The accounting officer is responsible for ensuring that a PPP agreement is properly enforced, and must establish mechanisms and procedures for–
- (a) monitoring and regulating the implementation of, and performance in terms of, the agreement;
 - (b) liaising with the private party;
 - (c) resolving disputes and differences with the private party; and
 - (d) generally overseeing the day-to-day management of the agreement.
- 16.9.2 A PPP agreement does not divest the accounting officer of the responsibility for ensuring that the relevant institutional function is effectively and efficiently performed in the public interest.

16.10 Amendment of public-private partnership agreements

- 16.10.1 Only the accounting officer may enter into an agreement to amend a PPP agreement.
- 16.10.2 Written approval of the relevant treasury is required for material amendments of PPP agreements.
- 16.10.3 The relevant treasury will approve an amendment only if it is satisfied that the amended PPP agreement will–
- (a) provide value for money;
 - (b) be affordable for the institution; and
 - (c) transfer appropriate technical, operational and financial risk to the private party.
- 16.10.4 The accounting officer must substantially follow the procedure prescribed by clauses 16.5 and 16.6 for obtaining treasury approval.

16.11 Certain agreements not binding on the state

- 16.11.1 A PPP agreement or an agreement amending a PPP agreement does not bind the state if the agreement was entered into on behalf of an institution–
- (a) by a person other than the accounting officer of the institution; or
 - (b) without the approval of the national Treasury.

16.12 Exemptions

- 16.12.1 The national Treasury may exempt from the application of these *Treasury Regulations* any agreement or category of agreements that fall within the definition of “public-private partnership agreement”, if these are of a nature or have a monetary value deemed not to warrant treasury control.

16.13 General

- 16.13.1 An agreement between an institution and a private party for the latter to perform an institutional function without accepting the significant risks is not a PPP agreement and must be dealt with as a borrowing transaction in terms of the appropriate legislation.

PART 7

Accounting and Reporting Requirements

Basic accounting records and related issues

17.1 Use of control accounts [Section 40(1)(a) of the PFMA]

- 17.1.1 All the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.
- 17.1.2 Should it be necessary, in exceptional cases, to account for revenue and expenditure transactions in a control account because the classification has not been resolved, the accounting officer, or his or her designate, must ensure that–
- the sources of the transactions are readily identifiable;
 - amounts included in the control accounts are, each month, cleared and correctly allocated to the relevant cost centres;
 - monthly reconciliations are performed to confirm the balance of each account; and
 - reports are provided to the chief financial officer about uncleared items on a monthly basis.

17.2 Availability of financial information [Section 40(1)(a) of the PFMA]

- 17.2.1 Accounting officers of institutions must, subject to the provisions of the National Archives of South Africa Act, 1996 (No. 43 of 1996), retain *all* financial information in its original form, as follows–
- information relating to one financial year – for one year after the audit report for the financial year in question has been tabled in Parliament or the provincial legislature; or
 - information relating to more than one financial year – for one year after the date of the audit report for the last of the financial years to which the information relates.
- 17.2.2 After the expiry of the above retention periods, the information may, if required, be secured in an alternative form that ensures the integrity and reliability of the data and ensures that the information can be reproduced, if necessary, as permissible evidence in a court of law.
- 17.2.3 Irrespective of paragraph 17.2.1, the following standards apply to the retention of certain types of record–

Type of record	Number of years after which records can be disposed of
General ledger and cash books or similar records	15
Main transaction summary records, including general journals and transaction summaries	10
Internal audit reports	
System appraisals	

Primary evidentiary records, including copies of forms issued for value, vouchers to support payments made, pay sheets, returned warrant vouchers or cheques, invoices and similar records associated with the receipt or payment of money	5
Subsidiary ledgers, including inventory cards and records relating to assets no longer held or liabilities that have been discharged	
Supplementary accounting records, including, for example, cash register strips, bank statements and time sheets	5
General and incidental source documents not included above, including stock issue and receivable notes, copies of official orders (other than the copies used to substantiate payments or for unperformed contracts), bank deposit books and post registers	5

17.2.4 When financial information is required as evidence in proceedings before a court, Parliament, a provincial legislature, an official inquiry or otherwise, or for purposes of an audit, it must be secured in its then current form until no longer required, even if the national Archivist has authorised its disposal.

17.3 Changes to financial systems

17.3.1 Institutions may not amend existing or institute new computerised systems that will affect financial administration without first consulting the national Treasury.

Monthly and annual reports

18.1 Cash flow [Section 40(4)(a) of the PFMA]

- 18.1.1 The accounting officer must annually submit to the relevant treasury a breakdown of anticipated revenue and expenditure in the format determined by the national Treasury, no later than the last working day of February preceding the financial year to which it relates.
- 18.1.2 Provincial treasuries must submit to the national Treasury by the 15th working day of February, projections of their expenditure, revenue and borrowings, in a format determined by the national Treasury.
- 18.1.3 Once such amounts have been approved, modified as necessary after consultation with the relevant treasury, the accounting officer may not draw from the revenue fund more than the amount approved for a month, without prior written approval from the relevant treasury.
- 18.1.4 If the accounting officer deems it necessary to adjust the approved projections, the proposed adjustments must be motivated to the relevant treasury for evaluation against the availability of funds in the Exchequer.

18.2 Monthly reports [Sections 32(2) and 40(4)(b) of the PFMA]

- 18.2.1 In terms of subsections 40(4)(b) and (c) of the Act, the accounting officer must submit to the relevant treasury and executive authority within 15 days of the end of each month, information on—
 - (a) the actual revenue and expenditure for that month, in the format determined by the national Treasury;
 - (b) projections of anticipated expenditure and revenue for the remainder of the current financial year in the format determined by the national Treasury; and
 - (c) any material variances and a summary of actions to ensure that the projected expenditure and revenue remain within the budget.
- 18.2.2 A provincial treasury must submit a statement to the national Treasury on actual revenue and expenditure with regard to its revenue fund before the 22nd day of each month in the format determined by the national Treasury. Such a statement must include a certificate to the effect that the information supplied has been verified by the head official of the provincial treasury.

18.3 Quarterly reports

- 18.3.1 Information on division of revenue grants must be reported in terms the annual Division of Revenue Act.
- 18.3.2 The accounting officer effecting transfer payments must submit a report to the relevant treasury within 15 days after every quarter, outlining per organisation all the funds transferred up to the end of that quarter.

18.4 Annual financial statements [Sections 40(1)(b) and 90(3)(3) of the PFMA]

18.4.1 For the financial year ending 31 March 2001, the following reporting standards comprise generally recognised accounting practice and must be adhered to, unless otherwise approved by the national Treasury–

Reporting entity	Generally recognised accounting practice
National and provincial revenue funds	<p>Annual financial statements must consist of–</p> <ul style="list-style-type: none"> (a) a statement of liabilities and financially related assets; (b) an income statement; (c) a cash flow statement; (d) notes to the annual financial statements; (e) a report on the financial position of and performance by the Treasury; and (f) such other statements as may be determined by the Accounting Standards Board. <p>The annual financial statements must be prepared on a cash basis and must be accompanied by the audit opinion of the Auditor-General.</p> <p>The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the relevant revenue fund.</p>
Departments Parliament Provincial legislatures	<p>Annual financial statements must consist of–</p> <ul style="list-style-type: none"> (a) a balance sheet; (b) an income statement; (c) a cash flow statement; (d) notes to the annual financial statements; and (e) such other statements as may be determined by the Accounting Standards Board. <p>The statements must be prepared on a cash basis and be accompanied by the audit opinion of the Auditor-General.</p> <p>The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the institution.</p>
Trading entities Constitutional institutions	<p>Annual financial statements must consist of–</p> <ul style="list-style-type: none"> (a) a balance sheet; (b) an income statement; (c) a cash flow statement; (d) notes to the annual financial statements; and (e) such other statements as may be determined by the Accounting Standards Board. <p>The annual financial statements must be accompanied by the audit opinion of the Auditor-General or the relevant auditor (in the case of public entities).</p> <p>Unless otherwise approved by the national Treasury, the annual financial statements must, in conformity with <i>Statements of Generally Accepted Accounting Practice</i> issued by the South African Institute of Chartered Accountants, fairly represent the financial position, financial performance and cash flows of the institution at the end of the financial year concerned.</p> <p>The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the institution.</p>

18.5 Contents of annual reports [Section 40(1)(d) of the PFMA]

- 18.5.1 In preparing the annual report of an institution, the accounting officer must–
- (a) in the case of a department or trading entity, comply with the requirements prescribed in Chapter 1, Part III J of the *Public Service Regulations*, 1999;
 - (b) include, after 1 April 2002, information about the institution's efficiency, economy and effectiveness in delivering programmes and achieving its objectives and outcomes against the measures and indicators set out in any strategic plan for the year under consideration;
 - (c) information on the measurement of the institution's performance for the past financial year as required by Section 40(1)(d)(i);
 - (d) information on transfer payments per organisation for the entire financial year as well as a report on compliance with Section 38(1)(j) of the Act;
 - (e) include any additional information required by Parliament or the provincial legislature;
 - (f) report on the use of foreign aid assistance, detailing the source and intended use of the assistance (including the value of any aid-in-kind in rand), performance information on the institution's use of the assistance, and any pending applications for assistance; and
 - (g) a report from the audit committee commenting on the effectiveness of internal control in the institution, as required by paragraph 4.2.14.

18.6 Additional annual reporting requirements for departments controlling trading entities and public entities

- 18.6.1 A department's annual report must include a list of trading and/or public entities controlled by the department, together with–
- (a) an indication of the legislation under which the trading and/or public entity was established;
 - (b) a statement of the functions of each trading and/or public entity; and
 - (c) the accountability arrangements established between the accounting officer and the management of the trading or public entity.

PART 8

Miscellaneous

19

Trading entities

19.1 Definitions [Section 76(4)(b) of the PFMA]

“head of the trading entity” refers to either–

- (a) the accounting officer appointed in terms of section 36(3)(b) of the Act; or
- (b) an official assigned to head the trading entity in terms of section 44(1)(a) of the Act.

19.2 General

- 19.2.1 For purposes of these *Treasury Regulations*, a trading entity is regarded as an entity operating within the administration of a department. All obligations on departments in these *Treasury Regulations* apply to trading entities, unless the context indicates otherwise.
- 19.2.2 The accounting officer of the department operating a trading entity must ensure that the head of the trading entity complies with the Act and these *Treasury Regulations*.
- 19.2.3 Trading entities allowed to open bank accounts may not borrow for bridging purposes and may not run overdrafts on their banking accounts unless approved otherwise in writing by both the accounting officer of the department and the relevant treasury.

19.3 Policy and reporting framework

- 19.3.1 The accounting officer of a department operating a trading entity must formulate a policy and reporting framework for the head of the trading entity.
- 19.3.2 The head of the trading entity is accountable to the accounting officer of the department operating that trading entity and must forward all reports or approvals required in the Act via the accounting officer of the department.

19.4 Establishment

- 19.4.1 Provincial treasuries may only establish a trading entity after consultation with the national Treasury.

19.5 Capital requirements

- 19.5.1 The initial capital requirements of the trading entity must be determined in consultation with the relevant treasury, and increases in such requirements are also subject to treasury approval.
- 19.5.2 In determining charges for goods or services, the head of the trading entity must aim to recover the full cost of providing the goods or services, unless the relevant treasury approves lower charges.
- 19.5.3 The head must review rates for user charges at least annually before the budget, and any tariff increases are subject to approval by the relevant treasury.

19.6 Disposal of assets

- 19.6.1 When assets are disposed of other than in the ordinary course of the business of the trading entity, the relevant treasury must approve the transaction.

19.7 Surrender of surplus funds

- 19.7.1 An accounting officer of a department operating a trading entity must, at the end of each financial year and after books of account have been closed, declare any surplus or deficit to the relevant treasury. The treasury may apply such surplus to reduce any proposed allocation to the trading entity, or require that all or part of it be redeposited in the Exchequer bank account.
- 19.7.2 Where a trading entity suffers a deficit in trading, the accounting officer of the department operating the trading entity must investigate whether–
- (a) the head of the trading entity mentioned any foreseeable potential overexpenditure in his or her monthly reports;
 - (b) appropriate steps were taken to address the deficit; and
 - (c) financial misconduct and criminal sanctions should be instituted if (a) and (b) above were not adhered to.

19.8 Financial reporting

- 19.8.1 The annual financial statements in respect of a trading entity must be compiled in accordance with paragraph 18.4.

Commissions and Committees of Inquiry

20.1 Definitions

“commission” means a commission of inquiry appointed by the President or Premier of a province to investigate a matter of public concern, and does not include any permanent commission, board, council, committee or similar body, whether appointed pursuant to any law or otherwise.

“committee” means a committee of inquiry appointed by the executive authority and includes an interdepartmental committee of inquiry, but does not include any permanent commission, board, council, committee or similar body, whether appointed pursuant to any law or otherwise.

“non-official member” means a person who is not an official member.

“official member” means a person as defined in section 8(1) of the Public Service Act, 1994 (Proclamation No. R.103 of 1994), a member of Parliament or a judge, as well as a person employed by a body that was established by an Act of Parliament and that receives its funds wholly, or in part, from the National Revenue Fund, where such a person represents the department or body where he or she is employed as a member of a commission or committee.

20.2 Remuneration of members

20.2.1 An official member must receive no additional remuneration and must receive subsistence and other allowances in accordance with his or her conditions of service.

20.2.2 A non-official member must be remunerated according to scales approved by the national Treasury.

20.2.3 Should the accounting officer deem it necessary, after taking into account market-related rates, the accounting officer, in consultation with the executive authority, can determine remuneration packages after consulting the relevant Treasury, provided that—

- (a) the terms of reference are properly defined in terms of time and cost;
- (b) the tariffs are reasonable compared to current market tariffs; and
- (c) funds are available for this purpose.

20.3 Services rendered by members during private time

20.3.1 Should the chairperson request a non-official member of a commission or committee to render services in his or her private time, other than the normal preparations for meetings, the person may be paid an honorarium (within the budget), as determined by the accounting officer and the executive authority. In the case of official members, section 30 of the Public Service Act, 1994 must be complied with.

Gifts, donations and sponsorships

21.1 Granting of gifts, donations and sponsorships by the state [Section 76(1)(l) of the PFMA]

- 21.1.1 The relevant treasury may approve gifts, donations and sponsorships of state money and other movable property in the interest of the state, provided that when such cash amounts exceed R100 000, funds must first be voted by Parliament or the provincial legislature.
- 21.1.2 Accounting officers need not refer to the relevant treasury when gifts, donations and sponsorships in the interest of the state do not exceed R10 000 per event.

21.2 Acceptance of gifts, donations and sponsorships to the state

- 21.2.1 The accounting officer may approve the acceptance of any gift, donation or sponsorship to the state, whether such gifts, donations or sponsorships are in cash or kind.
- 21.2.2 All cash gifts, donations or sponsorships must be paid into the relevant revenue fund.
- 21.2.3 Where it is not apparent for what purpose a gift, donation or sponsorship should be applied, the Minister or the MEC for finance may decide how it must be utilised. Where a gift is in cash, the Minister or the MEC for finance may, notwithstanding any provision to the contrary in any law, direct that for purposes of the Act, the gift is deemed to be revenue accruing to the revenue fund.
- 21.2.4 All gifts, donations or sponsorships received during the course of the financial year must be disclosed as a note to the annual financial statements of the institution.
- 21.2.5 Donor funding received in terms of the Reconstruction and Development Fund Act (No. 7 of 1994, as amended by Act No. 79 of 1998) must be dealt with as determined by the treasury from time to time.

21.3 Donations of immovable property by or to the state [Section 76(1)(k) of the PFMA]

- 21.3.1 The relevant treasury's approval must be obtained before institutions offer or accept any gift of immovable property.
- 21.3.2 Institutions must submit to the relevant treasury the reasons for and the conditions under which the gift of immovable property is offered or accepted.

21.4 Identity of donors and sponsors

- 21.4.1 When a donor or sponsor requests to remain anonymous, the accounting officer must submit to the relevant treasury a certificate from both the Public Protector and the

Auditor-General, which states that the identity of the donor or sponsor has been revealed to them, that they have noted it and have no objection.

- 21.4.2 The above provision in no way limits the Auditor-General or the Public Protector from supplying this information to their staff, and where they deem it in the public interest, to report on this.

Payments, refunds and remissions as an act of grace

22.1 General [Section 76(1)(j) of the PFMA]

- 22.1.1 Where no legislative authority exists, the accounting officer must seek approval from the relevant treasury prior to–
- (a) the remission of money due to a revenue fund;
 - (b) payments and refunds from a revenue fund as an act of grace; and
 - (c) where–
 - (i) more than R100 000 is involved, seek Parliament or provincial legislature approval by including the item separately in the estimates of expenditure and, in the case of remissions, recouping the revenue by a payment from the relevant vote; and
 - (ii) R100 000 or less is involved, recouping the revenue, in the case of remissions, by means of a payment from the relevant vote.
- 22.1.2 The accounting officer may, however, approve payments, refunds and remissions as an act of grace without reference to the relevant treasury, provided that such payments, refunds or remissions do not exceed R10 000 per event.
- 22.1.3 Where there is doubt as to whether an amount may be written off as irrecoverable or should be treated as a remission of grace, the relevant treasury must make the decision.
- 22.1.4 All remissions, refunds or payments made as an act of grace during the financial year must be disclosed as a note to the annual financial statements of the institution.

23

Repeal of legislation

23.1 Repeal of regulations and instructions under Exchequer Act [Section 93(2) of the PFMA]

23.1.1 Regulations and instructions issued in terms of the Exchequer Act, 1975 (Act No. 66 of 1975), are hereby repealed.

23.2 Commencement

23.2.1 These *Treasury Regulations* take effect on 1 June 2000.