

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 2069 [NW2332E]
DATE OF PUBLICATION: 29 May 2015

2069. Mr M G P Lekota (Cope) to ask the Minister of Finance:

(a) How many transgressions by intent or by acts of omission of the provisions of the Public Finance Management Act, Act 1 of 1999 and the Municipal Finance Management Act, Act 56 of 2003, took place between 1 June 2009 and 31 May 2015, (b) what disciplinary outcomes resulted from each of these omissions and/or transgressions, (c) how many prosecutions resulted each year in respect of officials not adhering strictly to either of the specified Acts or transgressing their respective provisions in any way and (d) what active measures he has in place to enforce stricter compliance and monitoring of the specified Acts in order to optimally achieve their stated objectives; if not, why not, in each case; if so, what are the relevant details, in each case?

NW2332E

REPLY:

- (a) Tables 1 and Table 2 below provide details of the percentage number of national departments, constitutional institutions and public entities that transgressed particular areas of the PFMA. The tables provide information for the 2009/2010 financial year to the 2013/2014 financial year. Information related to the 2014/2015 financial year is not available as yet since the audit procedures for this year have not been finalised as yet. Table 3 provides details of the percentage number of municipalities and municipal entities that transgressed particular areas of the MFMA from 2010/11 to 2013/14.

Table 1: Summary of findings related to non-compliance with laws and regulations (PFMA and Treasury Regulations) (National Departments)

Financial Year	2009/10	2010/11	2011/12	2012/13	2013/14
No. of Departments in existence	35	39	41	40	40
Description of findings	<i>% Findings</i>	<i>% Findings</i>	<i>% Findings</i>	<i>% Findings</i>	<i>% Findings</i>
Material misstatement or limitations in submitted Annual Financial Statements	-	-	71%	66%	65%
Unauthorised, irregular, as well as fruitless and wasteful expenditure	33%	50%	49%	30%	40%
Annual financial statements and annual report	-	78%	2%	10%	10%
Asset management	67%	60%	22%	13%	13%
Liability management	8%	10%	-	-	3%
Budgets	-	-	5%	-	-
Expenditure management	25%	92%	44%	40%	28%
Financial misconduct	-	-	7%	3%	8%
Audit committees	9%	21%	2%	5%	8%
Internal audit	9%	23%	10%	13%	18%
Revenue management	8%	30%	15%	10%	8%

Financial Year	2009/10	2010/11	2011/12	2012/13	2013/14
Strategic planning and performance management	-	44%	27%	30%	30%
Transfer and conditional grants	-		12%	15%	13%
Procurement management	53%	78%	51%	38%	45%
Human Resource management	32%	42%	54%	55%	40%

Table 2: Summary of findings related to non-compliance with laws and regulations (PFMA and Treasury Regulations) (Constitutional Institutions and Public Entities)

Financial Year	2009/10	2010/11	2011/12	2012/13	2013/14
No. of Constitutional Institutions and National Public Entities in existence	179	177	167	181	180
Constitutional Institutions	9	9	9	9	9
Description of findings	<i>% Findings</i>	<i>% Findings</i>	<i>% Findings</i>	<i>% Findings</i>	<i>% Findings</i>
Material misstatement or limitations in submitted Annual Financial Statements	48%	46%	61%	47%	44%
Unauthorised, irregular, as well as fruitless and wasteful expenditure	30%	27%	43%	31%	32%
Annual financial statements and annual report	-	68%	11%	6%	3%
Asset management	52%	55%	13%	8%	10%
Liability management	52%	27%	-	1%	2%
Budgets	-	-	4%	6%	2%

Expenditure management	48%	69%	8%	14%	14%
Financial misconduct	5%	13%	3%	2%	4%
Audit committees	9%	14%	2%	8%	4%
Internal audit	9%	23%	14%	10%	9%
Revenue management	57%	41%	9%	10%	7%
Strategic planning and performance management	4%	24%	17%	12%	12%
Procurement management	24%	61%	43%	35%	30%
Human Resource management	-	-	-	2%	1%

Table 3: Summary of Findings related to non-compliance with laws and regulations (MFMA and its Regulations) for municipalities and municipal entities

Financial Year	2010/11	2011/12	2012/13	2013/14
Number of Auditees	331	338	333	335
Description of findings	<i>% Findings</i>	<i>% Findings</i>	<i>% Findings</i>	<i>% Findings</i>
Material misstatement or limitations in submitted Annual Financial Statements	74%	86%	-	-
Unauthorised, irregular, as well as fruitless and wasteful expenditure	66%	73%	63%	60%
Annual financial statements and annual report	39%	65%	44%	27%
Asset management	33%	48%	45%	39%

Financial Year	2010/11	2011/12	2012/13	2013/14
Budgets	46%	44%	46%	42%
Expenditure management	41%	53%	52%	42%
Consequence Management	-	-	41%	42%
Audit committees	40%	48%	40%	38%
Revenue management	-	-	36%	33%
Supply Chain Management	70%	73%	69%	63%
Human Resource management	-	-	43%	36%

(b) In terms of section 38(1)(h)(i) and section 51(1)(e) of the PFMA, accounting officers and accounting authorities must take effective and appropriate disciplinary steps against any official in the service of the department, constitutional institution or public entity who contravenes or fails to comply with a provision of the PFMA. Similarly, in terms of sections 62(1)(e) and 95(f) of the MFMA the accounting officers must take all reasonable steps to ensure that disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality or municipal entity who has allegedly committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA. The information relating to the outcomes of disciplinary hearings as conducted by the accounting officers and accounting authorities will therefore only be available at institutional level.

The recently released Public Service Commission report provides the following, that total number of finalised cases of financial misconduct reported by departments 2001/02 and 2012/13 was 10 483 of which 8 696 (83% found guilty and 918 cases were withdrawn).

- (c) Similar to (b) above, detailed information relating to the prosecution of officials who transgressed both the PFMA and MFMA is available at institutional level.
- (d) The National Treasury developed the Financial Management Capability Maturity Model (FMCMM) as a tool to monitor compliance with the PFMA and MFMA and to determine deficiencies in financial management practices. The FMCMM is currently being reviewed to ensure its alignment with local and international financial management best practices, including the King III Report on Corporate Governance (King III), 2009, as well as other financial management frameworks issued by the National Treasury. The FMCMM model and 32 national uniform financial indicators for Local Government has been rolled out for the first time to municipalities and municipal entities. Outcomes will be discussed with Provinces and Municipalities and will inform support and other initiatives.

In order to mitigate against poor compliance in PFMA compliant institutions, the revised Treasury Regulations make it incumbent on accounting officers and accounting authorities to dedicate capacity to improve compliance with the PFMA within their respective institutions. To assist in this regard, the National Treasury is currently developing a Compliance Framework to assist accounting officers and accounting authorities of institutions to improve levels of compliance with the PFMA.

The National Treasury promulgated the Municipal Regulations on Financial Misconduct and Criminal Proceedings. The purpose of the regulation is to provide a legal framework for municipalities and municipal entities to effectively deal with instances of financial misconduct resulting from non-compliance with the provisions of the MFMA.

The National Treasury monitors progress with settlement of bulk accounts through MFMA section 41 and in-year expenditure through the MFMA section 71 reports. Information gathered from these reports is also utilised to render support and implement enforcements measures.