

REPUBLIC OF SOUTH AFRICA

DRAFT

PUBLIC FINANCE MANAGEMENT AND RELATED LAWS AMENDMENT BILL

PUBLISHED FOR PUBLIC COMMENT – 21 OCTOBER 2026

*(As introduced in the National Assembly (proposed section 76); explanatory
summary of Bill and prior notice of its introduction published in Government
Gazette...)*

(The English text is the official text of the Bill)

(MINISTER OF FINANCE)

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from the existing enactments.
- _____ Words underlined with solid line indicate insertions in existing enactments.
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BILL

To—

- repeal the Exchequer Act, 1975;
- amend the Financial and Fiscal Commission Act, 1997; so as to require the Financial and Fiscal Commission to report to Parliament on whether the fiscal plan is consistent with fiscal sustainability, whether the fiscal framework and the medium term budget policy statement are consistent with the fiscal plan and fiscal sustainability, and on the adequacy of the reporting on implementation of the fiscal plan; to require the Commission to publish a report on the fiscal plan;
- amend the Public Finance Management Act, 1999, so as to insert and amend certain definitions; to delete reference to accounting authority throughout the Act; to clarify the powers and functions of the National Treasury; to provide for stopping of funds to provinces; to provide for stopping of funds to institutions; to provide for the establishment of the Office of the Accountant-General and set out its functions; to clarify aspects relating to banking processes for institutions, to require certain public entities to invest surplus funds with the Corporation for Public Deposits; to require the Accountant-General to prepare consolidated financial statements for institutions and to submit to the Auditor-General; to require the National Treasury to publish financial statistics and aggregations concerning all spheres of government on the National Treasury website; to clarify the National Treasury's role with regards to the control of the National Revenue Fund; to outline a timeframe for the South African Revenue Service to make deposits into the National Revenue Fund; to clarify withdrawal from the National Revenue Fund by the National Treasury; to revoke the power of the National Treasury to withdraw exclusions; to empower the Minister of Finance to impose conditions when authorising the use of funds in emergency situations; to clarify the functions and powers of a provincial treasury; to require the Provincial Treasuries to prepare consolidated financial statements for institutions and to submit to the Auditor-General; to outline a timeframe for money received by a provincial government to be deposited into the National Revenue Fund; to provide for a provincial treasury to temporarily invest funds in the Corporation for Public Deposit; to require the Minister of Finance to table the fiscal framework with the annual budget; to empower the Minister of Finance to table a multi-year budget projection that contain key macro-economic projections; clarify that expenditure funds may be withdrawn from the relevant Revenue Fund for the requirement of the state or province; to require that the Minister of Finance must table an explanation of how appropriations are consistent with the fiscal plan when tabling an adjustment budget; to require the Accountant-General to publish a statement of actual revenue and expenditure with regard to the National Revenue Fund; to provide for fiscal sustainability and fiscal plan; to empower the relevant Treasury to impose conditions when

withholding appropriated funds; to empower Parliament or a provincial legislature to determine when an additional amount for the amount of any overspending must be charged against a vote; to provide requirements for unfunded mandates; to require accounting officers to implement technology for financial management; to clarify the general responsibilities of accounting officers and to provide for the protection of accounting officers and officials acting in good faith when performing any function or exercising any duty; to provide for the fiduciary responsibilities of accounting officers; to provide for accounting officers' responsibilities relating to budgetary control for constitutional institutions and trading entities; to clarify the reporting requirements for institutions; to clarify accounting officers' responsibilities when assets and liabilities are transferred; to provide for the utilisation of unspent funds within a vote; to provide for transfer of funds; to provide for sub-delegation by an official; to provide for the appointment of a chief financial officer of a department, constitutional institution or trading entity; to provide for the amendment of Schedule 2 by notice in the *Gazette*; to empower the Minister to classify public entities listed in Schedule 2 as national government business enterprise which is a major public entity; to clarify the retention of surplus requirements and provide for certain exclusions; to provide for the concurrence of, and imposition of conditions by the relevant treasury in respect of certain transactions; to require a public entity must, on request, provide the National Treasury with information on guarantees, contingent liabilities and other material fiscal exposures; to provide for the assignment of powers and duties by board or controlling body; to provide for the appointment of a chief financial officer of a public entity; to provide for intervention by Minister if a public entity is in financial distress; to clarify the financial responsibilities of executive authorities; to provide for the protection of accounting officers from unlawful directives from executive authorities; to clarify timelines for tabling in legislatures; to provide for the concurrence of the Minister for conditions of services of institutions; to provide for the concurrence of Minister for determinations of remuneration for members of controlling bodies of public entities; to empower the Minister to impose conditions when granting an approval to borrow money in foreign currency; to clarify that payment under a guarantee, indemnity or security must in the first instance be defrayed from the funds budgeted for a department and thereafter defrayed as a direct charge; to clarify matters relating to regulations and instructions; to empower the National Treasury to issue interpretation ruling regarding the application of this Act; to empower accounting officers to establish governance structures; to enhance provisions on financial misconduct; to require the National Treasury to publish draft regulations on the National Treasury's Website; to revoke the power of the National Treasury to approve a departure; to empower the Minister of Finance to determine uniform interest rate payable to a public entity; to provide that failure to comply with a condition imposed by the Minister constitutes financial misconduct; to provide for financial misconduct by executive authority; to empower a disciplinary structure to impose administrative fine as determined by the Minister of Finance; to provide for the establishment of the Financial Misconduct Investigation Committee and its functions; to empower the National Treasury to issue compliance orders; to clarify offences and penalties; to

provide that the chief executive officer of the Accounting Standards Board is the accounting officer; to empower the Accounting Standards Board to set standards of generally recognised accounting practice for the annual financial statements of trading entities; to empower the Minister of Finance and the National Treasury to impose conditions when granting an exemption or departure respectively; to repeal certain sections; to substitute Schedule 2;

- amend the Public Audit Act, 2004, so as to empower the Minister responsible for finance to determine the accounting framework for institutions not subject to the Public Finance Management Act;
- amend the Money Bills and Related Matters Act, 2009, so as to include the definition of “fiscal plan” and “fiscal sustainability”; to require a committee on finance to report on the performance of the Minister of Finance against the fiscal plan, published budget reviews and medium term budget policy statements; to require the National Assembly through its Committees to assess the expenditure report relating to a department as published by the National Treasury; that the medium term budget policy statement must include an explanation of the macro-economic and fiscal policy position, the macroeconomic projections and the assumptions underpinning the fiscal framework to achieve debt sustainability; to determine the process for considering the fiscal plan and for the finance committees of Parliament to report on whether the fiscal framework is consistent with fiscal sustainability and the fiscal plan; to require that the fiscal framework is consistent with fiscal sustainability and fiscal plan; to enable the National Assembly to require the Minister of Finance to set out the measures and time frame proposed to ensure that the fiscal framework is consistent with fiscal sustainability and the fiscal plan,

and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Repeal of Act 66 of 1975

1. The Exchequer Act, 1975 (Act No. 66 of 1975), is hereby repealed.

Amendment of section 3 of Act 99 of 1997, as amended by section 1 of Act 25 of 2003, and section 2 of Act 4 of 2015

2. Section 3 of the Financial and Fiscal Commission Act, 1997, is hereby amended by the insertion after subsection (2D) of the following subsections:

“(2E) The Commission must report to Parliament on whether—

- (a) the fiscal plan contemplated in section 32A of the Public Finance Management Act is consistent with fiscal sustainability;
- (b) the fiscal framework tabled in terms of section 7 of the Money Bills and Related Matters Act, 2009 (Act No. 9 of 2009) is consistent with the fiscal plan and fiscal sustainability;

- (c) the medium term budget policy statement tabled in terms of section 6 of that Money Bills and Related Matters Act, 2009 (Act No. 9 of 2009) is consistent with the fiscal plan and with fiscal sustainability; and
 - (d) the reporting on the feasibility of the fiscal plan contemplated in section 32A of the Public Finance Management Act is adequate.
- (2F) The Commission must submit to Parliament the report contemplated in subsection (2E)(a) within 30 days after the fiscal plan is tabled.”.

Amendment of section 27 of Act 99 of 1997, as amended by section 16 of Act 4 of 2015

3. Section 27 of the Financial and Fiscal Commission Act, 1997, is hereby amended by the addition of the following subsection:

“(3) The Commission must publish a report prepared in terms of section 3(2E).”.

Amendment of section 1 of Act 1 of 1999, as amended by section 1 of Act 29 of 1999 and section 42 of Act 30 of 2007

4. Section 1 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the insertion before the definition of “accounting officer” of the following definition:

“‘Accountant-General’ means the head of the Office of the Accountant-General referred to in section 6C.”;

(b) by the substitution for the definition of “accounting officer” of the following definition:

“‘accounting officer’ means—

(a) in relation to a department, constitutional institution or trading entity, a person referred to in section 36;

(b) in relation to a public entity, a person referred to in section 49.”;

(c) by the deletion of the definition of “accounting authority”;

(d) by the insertion after the definition of “Accounting Standard Board” of the following definition:

“‘administrator’ means a person appointed in terms of section 57B(3).”;

(e) by the insertion after the definition of “annual Division of Revenue Act” of the following definitions:

“‘compliance report’ means a report consisting of information that informs the relevant legislature on aspects of compliance with this Act;

‘Constitution’ means the Constitution of the Republic of South Africa, 1996.”;

(f) by the insertion after the definition of “constitutional institution” of the following definitions:

“‘control’ in relation to a public entity, means the ability to exercise in terms of legislation or other binding legal instrument, any of the following powers to

govern the financial and operating policies of the entity in order to obtain benefits from its activities:

- (a) To appoint or remove all, or the majority of, the members of the entity's board of directors or equivalent governing body;
- (b) to appoint or remove the entity's chief executive officer;
- (c) to cast all, or the majority of, the votes at meetings of the entity's board of directors or equivalent governing body; or
- (d) to control all, or the majority of, the voting rights at a general meeting of that entity;

'Corporation for Public Deposits' means the Corporation for Public Deposits established by section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984).";

(g) by—

- (i) the deletion of the word "and" at the end of the paragraph (c) in the definition of "executive authority";
- (ii) the insertion in the definition of "executive authority" of the word "and" at the end of paragraph (d); and
- (iii) the addition in the definition of "executive authority" after paragraph (d) of the following paragraph:

"(e) in relation to a constitutional institution consisting of a body of persons, means the chairperson of the constitutional institution, and in relation to a constitutional institution with a single office bearer, means that office bearer;"

(h) by the insertion after the definition of "executive authority" of the following definitions:

"'financial governance' means systems, policies or processes used by an institution to manage its finances, performance, compliance, operations and disclosures;

'financial loss' means a measurable reduction in the resources of an institution as a direct result of irregular expenditure;

'financial misconduct' means financial misconduct contemplated in section 81, 82, 83 or 83A;"

(i) by the substitution for the definition of "financial statements" of the following definition:

"'financial statements' means statements of an institution which is prepared in accordance with the prescribed norms and standards, and consists of—

- (a) a statement of financial position;
 - (b) a statement of financial performance;
 - (c) a statement of changes in net assets;
 - (d) a cash flow statement;
 - (e) where applicable, a comparison of budget and actual amounts spent;
- and

(f) notes, comprising a summary of significant accounting policies and other explanatory information;”;

(j) by the insertion after the definition of “financial year” of the following definitions:

“‘financially distressed’ in relation to a public entity, means that it is reasonably—

(a) unlikely that the public entity will be able to pay all of its debt as the debt becomes due and payable within the immediately ensuing 12 months;
or

(b) likely that the public entity will become insolvent within the immediately ensuing 12 months;

‘fiscal framework’ has the meaning assigned to it in section 1 of the Money Bills and Related Matters Act;

‘fiscal plan’ means the fiscal plan contemplated in section 32A;

‘fiscal risks’ means factors that may cause revenue, expenditure, the budget balance or public debt to deviate materially from that anticipated, and including, guarantees, contingent liabilities, public entities exposures, macro-economic and refinancing risks, and risks arising from litigation, disasters and the obligations of national and provincial government;

‘fiscal sustainability’ means the ability of the State, under reasonable macro-economic and fiscal assumptions, to meet its present and future expenditure and debt-service obligations and to manage its fiscal risks, without undermining macroeconomic stability and without requiring an unrealistically large or abrupt future correction to revenue or expenditure;”;

(k) by the substitution for the definition of “fruitless and wasteful expenditure” of the following definition:

“‘fruitless and wasteful expenditure’ means expenditure which was made in vain, [and would have been avoided had reasonable care been exercised] other than expenditure incurred in good faith in the exercise or performance of any power or duty in terms of this Act and incurred for goods or services that are delivered to the satisfaction of the institution in terms of the applicable contract;”;

(l) by the insertion after the definition of “generally recognised accounting practice” of the following definitions:

“‘gross domestic product’ means the total value of all goods produced and services delivered in the Republic within a financial year;

‘institution’ means an institution referred to in section 3(1);”;

(m) by the substitution for the definition of “irregular expenditure” of the following definition:

“‘irregular expenditure’ means expenditure, other than unauthorised expenditure and fruitless and wasteful expenditure, which does not comply with—

(a) this Act; or

- (b) any other legislation, as may be determined by the Minister by notice in the national *Government Gazette*, and resulted in a financial loss.”;
- (n) by the substitution for paragraph (a) in the definition of “government business enterprise” of the following paragraph:
- “(a) is a juristic person under the **[ownership]** control of the national executive.”;
- (o) by the insertion after the definition of “main division within a vote” of the following definition:
- “**major public entity**’ means a national government business enterprise that meets the majority of the prescribed criteria relating to its financial scale, commercial character, fiscal exposure, systemic importance, economic significance or public-interest significance.”;
- (p) by the insertion after the definition of “Minister” of the following definitions:
- “**Money Bills and Related Matters Act**’ means the Money Bills and Related Matters Act, 2009 (Act No. 9 of 2009);
- ‘**MTEF**’ has the meaning assigned to it in section 1 of the Money Bills and Related Matters Act.”;
- (q) by the insertion after the definition of “National Treasury” of the following definitions:
- “**Office of the Accountant-General**’ means the Office of the Accountant-General established by section 6C(1);
- ‘**official**’ means an employee of an institution.”;
- (r) by the deletion of the definition of “ownership control”;
- (s) by the insertion after the definition of “ownership control” of the following definition:
- “**performance against predetermined objectives**’ means a report on the performance of an institution’s annual performance plan, its use of budget and the state of its management systems.”;
- (t) by the substitution for the definition of “prescribe” of the following definition:
- “**prescribe**’ means prescribe by regulation **[or instruction]** in terms of section 76(1).”;
- (u) by the substitution for paragraph (a) of the definition of “provincial business enterprise” of the following paragraph:
- “(a) is a juristic person under the **[ownership]** control of the provincial executive.”; and
- (v) by the insertion after the definition of “provincial treasury” of the following definition:
- “**public debt**’ means the gross loan debt of national government reflected in the National Revenue Fund, and does not include guarantees or other contingent liabilities.”; and

- (w) by the insertion after the definition of “public entity” of the following definition:

“‘purpose’, in relation to an appropriation, means—

- (a) the purpose of the vote, the description of the relevant main division and the description of the relevant appropriation; and
(b) the classification, as prescribed, of the relevant appropriation;”.

Substitution of heading of Chapter 2 of Act 1 of 1999

5. The following heading is hereby substituted for the heading of Chapter 2 of the Public Finance Management Act, 1999:

“CHAPTER 2

NATIONAL TREASURY, OFFICE OF ACCOUNTANT-GENERAL AND NATIONAL REVENUE FUND

Part 1

***National Treasury and Office of Accountant-General*”.**

Amendment of section 6 of Act 1 of 1999

6. Section 6 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the deletion of paragraph (g) of subsection (1);
- (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
- “(b) must monitor and enforce compliance with this Act and any prescribed norms and standards, including any prescribed standards of generally recognised accounting practice and uniform classification systems, in national departments, national public entities and constitutional institutions;”;
- (c) by the insertion after paragraph (c) of subsection (2) of the following paragraphs:
- “(cA) must prescribe a framework for financial systems and ensure implementation and maintenance of the financial systems in departments, constitutional institutions and public entities;
- “(cB) may prescribe the digitalisation of financial management;”;
- (d) by the substitution for paragraphs (d) and (e) of subsection (2) of the following paragraphs:
- “(d) must establish a financial misconduct committee in the Office of the Accountant-General to investigate allegations of financial misconduct;
- “(e) must refer any serious or persistent breach of this Act by an accounting officer, board or controlling body or officials to the relevant institution to address the breach;”;
- (e) by the insertion after paragraph (e) of subsection (2) of the following paragraph:

“(eA) may, as prescribed, instruct an institution to stop or suspend any payment to any supplier, company or person, where it has reasonable grounds for suspicion of corrupt, fraudulent or criminal acts including illegal payments;”; and

(f) by the addition of the following subsection after subsection (3):

“(4) When performing any function or exercising any power in terms of this Act, the National Treasury may impose conditions.”.

Insertion of sections 6A to 6D in Act 1 of 1999

7. The following sections are hereby inserted after section 6 of the Public Finance Management Act, 1999:

“Stopping of funds to provinces

6A. (1) The National Treasury may stop the transfer of funds due to a province, as envisaged in section 216(3) of the Constitution, if—

- (a) that province commits a serious or persistent breach of the measures established in terms of section 216(1) of the Constitution;
- (b) there is persistent and material non-compliance with this Act or the annual Division of Revenue Act by that province; or
- (c) the expenditure by that province on the transfer of a previous financial year reflects a significant under-spending or overspending in the current financial year.

(2) Before stopping the transfer of funds to a province in terms of subsection (1), the National Treasury must—

- (a) inform the MEC for finance in the province;
- (b) give the province an opportunity to submit written representations; and
- (c) consult the executive authority of the national department making the transfer.

(3) If the stopping of funds in terms of subsection (1) may affect the provision of essential services in the province, the relevant treasury must monitor the continuation of those services.

(4) Any stopping of funds contemplated in subsection (1) must, together with an explanatory memorandum, be published by the National Treasury in the Gazette.

(5) (a) The Minister may, by notice in the Gazette, approve that any funds or any portion of such funds stopped in terms of subsection (1), be utilised to meet that province’s outstanding statutory and contractual financial commitments.

(b) The utilisation of funds contemplated in this subsection is a direct charge against the National Revenue Fund.

Stopping of funds to institutions

6B. (1) The National Treasury may stop the transfer of funds due to an institution, as referred to in section 216(2) of the Constitution, if the institution commits a serious or persistent breach of the measures established in terms of section 216(1) of the Constitution.

(2) When considering whether to stop the transfer of funds to an institution in terms of subsection (1), the National Treasury must take into account all relevant facts relating to the institution's compliance with the requirements of this Act, including but not limited to—

- (a) the failure to submit annual financial statements to the Auditor-General for audit;
- (b) persistent adverse, disclaimer or qualified audit opinions;
- (c) persistent incurrence of unauthorised, irregular or fruitless and wasteful expenditure or financial losses from criminal conduct; or
- (d) the failure to submit information on the budget and implementation of the budget to the National Treasury and the relevant provincial treasury.

(3) Before stopping the transfer of funds to an institution in terms of subsection (1), the National Treasury must give the institution an opportunity to submit written representations.

(4) If the stopping of funds in terms of subsection (1) affects the provision of services by that institution, the relevant executive authority must monitor the continuation of those services.

(5) (a) The Minister may, by notice in the Gazette, approve that any funds or any portion of such funds stopped in terms of subsection (1), be utilised to meet the institution's outstanding statutory and contractual financial commitments.

(b) The utilisation of funds contemplated in this subsection is a direct charge against the National Revenue Fund.

OFFICE OF ACCOUNTANT-GENERAL

Establishment of Office of Accountant-General

6C. (1) There is hereby established the Office of the Accountant-General within the National Treasury.

(2) The Accountant-General performs the duties and exercises the powers of the Office of the Accountant-General.

Functions of Office of Accountant-General

6D. (1) The Office of the Accountant-General, in accordance with this Act, must—

- (a) prepare consolidated financial statements for each financial year in terms of section 8;
- (b) promptly transfer all taxes, levies, fees and other moneys collected by the South African Revenue Service for a province and deposited into the National Revenue Fund, to that province's Provincial Revenue Fund;
- (c) publish a statement of actual revenue and expenditure in relation to the National Revenue Fund in terms of section 32;
- (d) build financial management capacity through the issuance of a public finance management competency framework;
- (e) provide support to, and guide, officials with accounting, internal audit and risk management;
- (f) promote standardisation in financial management reporting;

- (g) intervene through investigation and take appropriate steps to address any material breach of this Act or financial misconduct;
- (h) manage government payroll deductions; and
- (i) perform any other functions provided for in this Act and any sub-delegated instruction by the head of department of the National Treasury.
- (2) The Office of the Accountant-General may—
 - (a) issue guidelines to assist institutions to the extent necessary to perform the functions referred to in subsection (1); and
 - (b) exercise any other powers conferred by this Act and any sub-delegated power by the head of the department of the National Treasury.”.

Amendment of section 7 of Act 1 of 1999, as amended by section 4 of Act 29 of 1999

8. Section 7 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:

“(2) (a) Unless the specific legislation applicable to an institution provides otherwise, an institution authorised to open a bank account in terms of the prescribed framework may, with the approval of the National Treasury, open a bank account only with a bank—

- (i) registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), and licensed in terms of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017); and
- (ii) designated by the National Treasury by notice in the national *Government Gazette*.

(b) The National Treasury may on good grounds instruct an institution to close a bank account contemplated in paragraph (a).”;

- (b) by the substitution for subsection (3) of the following subsection:

“(3) (a) A department, public entity listed in Schedule 2 or 3 or constitutional institution may not open a bank account abroad or with a foreign bank except with the written approval of the National Treasury, after consultation with the Prudential Authority, established by section 32 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017).

(b) The National Treasury may on good grounds instruct an institution to close a bank account contemplated in paragraph (a).”;

- (c) by the substitution for subsection (4) of the following subsection:

“(4) (a) A public entity listed in Part A or C of Schedule 3 must invest surplus funds with the Corporation for Public Deposits, or as prescribed.

(b) The Minister may prescribe an investment framework for public entities, constitutional institutions and departments authorised to open a bank or other account in terms of the prescribed framework.”;

- (d) by the insertion after subsection (4) of the following subsection:

“(4A) A public entity must have an investment policy approved by the board or controlling body.”; and

- (e) by the substitution for subsection (5) of the following subsection:

“(5) A bank which has opened a bank account for a department, a public entity listed in Schedule 3 or a constitutional institution, or any other institution that holds money for a department, a public entity listed in Schedule 3 or a constitutional institution, must, **[promptly]** within 14 days, disclose information regarding the account when so requested by the National Treasury or the Auditor-General, or, in the case of a provincial department or provincial public entity, by the National Treasury, the Auditor-General or the relevant provincial treasury.”.

Amendment of section 8 of Act 1 of 1999

9. Section 8 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The Accountant-General must—
 (a) prepare consolidated financial statements for institutions in respect of each financial year in accordance with the prescribed norms and standards; and
 (b) submit those statements for audit to the Auditor-General within five months after the end of that financial year.”;

- (b) by the substitution for subsection (2) of the following subsection:

“(2) (a) The Auditor-General must audit the consolidated financial statements and submit an audit report on the statements to the **[National Treasury]** Accountant-General within **[three]** two months of receipt of the statements.
 (b) If the Auditor-General is unable to complete an audit within two months of receiving the financial statements from an accounting officer, the Auditor-General must promptly submit a report outlining the reasons for the delay to Parliament and notify the National Treasury.”; and

- (c) by the substitution for subsection (5) of the following subsection:

“(5) If the Minister fails to submit the consolidated financial statements and the Auditor-General's audit report on those statements to Parliament within **[seven]** eight months after the end of the financial year to which those statements relate—
 (a) the Minister must submit—
 (i) to Parliament a written explanation setting out the reasons why they were not submitted; and
 (ii) them to Parliament within 60 days after submitting that explanation; and
 (b) the Auditor-General may issue a special report on the delay of the audit report.”.

Substitution of section 9 of Act 1 of 1999

10. The following section is hereby substituted for section 9 of the Public Finance Management Act, 1999:

“9. The National Treasury may annually compile in accordance with international standards, and publish **[in the national *Government Gazette*] on the National Treasury’s website**, financial statistics and aggregations concerning all spheres of government.”.

Amendment of section 10 of Act 1 of 1999, as inserted by section 5 of Act 29 of 1999

11. Section 10 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for subparagraph (i) and (ii) of paragraph (b) of subsection (2) of the following subparagraphs:

- “(i) to sub-delegate, in writing, the delegated power to another National Treasury official, or to the holder of a specific post in the National Treasury, or to the accounting officer of a constitutional institution or a department, or **[to the accounting authority for]** a public entity; or
- (ii) to instruct another National Treasury official, or the holder of a specific post in the National Treasury, or the accounting officer for a constitutional institution or a department, or **[the accounting authority for]** a public entity, to perform the assigned duty;”;

(b) by the substitution for subparagraph (i) and (ii) of paragraph (c) of subsection (2) of the following subparagraphs:

- “(i) to subdelegate, in writing, the delegated power to an official in that provincial treasury, or to the holder of a specific post in that provincial treasury, or to the accounting officer for a provincial department~~[,]~~ or **[to the accounting authority for]** a provincial public entity; or
- (ii) to instruct an official in that provincial treasury, or the holder of a specific post in that provincial treasury, or the accounting officer for a provincial department ~~[,]~~ or **[the accounting authority for]** a provincial public entity, to perform the assigned duty; and”;

(c) by the substitution for subsection (3) of the following of subsection:

“(3) The Minister may confirm, vary or revoke any decision taken by the head of a department forming part of the National Treasury, or by a provincial treasury, as a result of a delegation, instruction or request in terms of subsection (1)(a) or (b), or by a treasury official or accounting officer **[or accounting authority]** as a result of an authorisation in terms of subsection (2)(b) or (c), subject to any rights that may have become vested as a consequence of the decision.”.

Amendment of section 11 of Act 1 of 1999

- 12.** Section 11 of the Public Finance Management Act, 1999, is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
- “(1) The National Treasury is in charge of the National Revenue Fund and must **[enforce compliance with the provisions of section 213 of the Constitution, namely]** ensure that—”; and
- (b) by the deletion of subsection (2).

Amendment of section 12 of Act 1 of 1999

- 13.** Section 12 of the Public Finance Management Act, 1999, is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) The South African Revenue **[Services]** Service must **[promptly]**, within 14 days, deposit into a Revenue Fund all taxes, levies, duties, fees and other moneys collected by it for that Revenue Fund, in accordance with a framework determined by the National Treasury.”;
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
- “The South African Revenue **[Services]** Service, may despite section 15(1), withdraw money from the National Revenue Fund—”; and
- (c) by the substitution for subsection (3) of the following subsection:
- “(3) The **[National Treasury]** Accountant-General must, **[promptly]** within 14 days after the deposit into the National Revenue Fund, transfer all taxes, levies, duties, fees and other moneys collected by the South African Revenue **[Services]** Service for a province and deposited into the National Revenue Fund, to that province’s Provincial Revenue Fund.”.

Repeal of section 14 of Act 1 of 1999

- 14.** Section 14 of the Public Finance Management Act, 1999, is hereby repealed.

Amendment of section 15 of Act 1 of 1999

- 15.** Section 15 of the Public Finance Management Act, 1999, is hereby amended—
- (a) by the substitution for subparagraph (ii) of paragraph (a) of subsection (1) of the following subparagraph:
- “(ii) as a direct charge against the National Revenue Fund provided for in the Constitution or this Act or Schedule 5 to this Act, or in any other Act

of Parliament **[provided the direct charge in such a case is listed in Schedule 5];**” and

(b) by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) The National Treasury may invest temporarily, in the Corporation for Public Deposits, the Republic or **[elsewhere]** offshore, money in the National Revenue Fund that is not immediately needed.”.

Amendment of section 16 of Act 1 of 1999

16. Section 16 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Minister may authorise, subject to any conditions, the use of funds from the National Revenue Fund to defray expenditure of an exceptional nature which is currently not provided for and which cannot, without serious prejudice to the public interest, be postponed to a future parliamentary appropriation of funds.”; and

(b) by the substitution for subsection (2) of the following subsection:

“(2) The combined amount of any authorisations in terms of subsection (1), may not—
 (a) if an annual budget has been passed in the current financial year, exceed two per cent of the total amount appropriated in the annual national budget; or
 (b) if an annual budget has not been passed, exceed two per cent of the total amount appropriated in the previous annual or adjustment budget.”.

Amendment of section 18 of Act 1 of 1999, as inserted by section 6 of Act 29 of 1999

17. Section 18 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

“(a) **[must]** may issue provincial treasury instructions that are not inconsistent with this Act;
 (b) must monitor and enforce compliance with this Act and any prescribed norms and standards, including any prescribed standards of generally recognised accounting practice and uniform classification systems, in provincial departments and provincial public entities;”;

(b) by the substitution in subsection (2) for paragraphs (e) and (f) of the following paragraphs:

- “(e) may assist provincial departments and provincial public entities in building their capacity for efficient, effective and transparent financial management and financial governance support;
 - (f) may investigate any system of financial management, **[and]** internal control and financial misconduct **[applied by]** in a provincial department or a provincial public entity;”;
- (c) by the insertion after paragraph (g) of subsection (2) of the following paragraph:

“(gA) with the concurrence of the National Treasury, may, as prescribed, instruct a provincial department or public entity to stop or suspend any payment to any supplier, company or person, if the provincial treasury has reasonable grounds for suspicion of corrupt, fraudulent or criminal acts including illegal payments.”;
- (d) by the substitution for paragraph (h) of subsection (2) of the following paragraph:

“(h) must, **[promptly]** within 14 days of the request of the information by the National Treasury provide **[any]** such information required **[by the National Treasury]** in terms of this Act; and;”; and
- (e) by the addition of the following subsection:

“(3) When performing any function or exercising any power in terms of this Act, a provincial treasury may impose conditions.”.

Amendment of section 19 of Act 1 of 1999, as inserted by section 6 of Act 29 of 1999

- 18.** Section 19 of the Public Finance Management Act, 1999, is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:

“(1) A provincial treasury must—

 - (a) prepare consolidated financial statements for each financial year in accordance with the prescribed norms and standards; and
 - (b) submit those statements for audit to the Auditor-General within five months after the end of that financial year.”;
 - (b) by the substitution for subsection (2) of the following subsection:

“(2) (a) The Auditor-General must audit the consolidated financial statements and submit an audit report on the statements to the provincial treasury of the province concerned within **[three] two** months of receipt of the statements.

(b) If the Auditor-General is unable to complete an audit within two months of receiving the financial statements from an accounting officer, the Auditor-General must promptly submit a report outlining the reasons for the delay to the relevant legislature and notify the relevant provincial treasury.”; and
 - (c) by the substitution for subsection (5) of the following subsection:

“(5) If the MEC for finance fails to submit the consolidated financial statements and the Auditor-General's audit report on those statements to the provincial legislature within **[seven]** eight months after the end of the financial year to which those statements relate—

- (a) the MEC for finance must submit—
 - (i) _____ to the legislature a written explanation setting out the reasons why they were not submitted; and
 - (ii) them to the legislature within 60 days after submitting that explanation; and
- (b) the Auditor-General may issue a special report on the delay of the audit report.”.

Amendment of section 20 of Act 1 of 1999, as inserted by section 6 of Act 29 of 1999

19. Section 20 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for subparagraph (i) and (ii) of paragraph (b) of subsection (2) of the following subparagraphs:

- “(i) to, in writing, sub-delegate the delegated power to another treasury official or the holder of a specific post in that treasury, or to the accounting officer for a provincial department, or **[to the accounting authority]** for a provincial public entity in the province; or
- (ii) to instruct another provincial treasury official or the holder of a specific post in that treasury, or the accounting officer for a provincial department, or **[the accounting authority]** for a provincial public entity in the province, to perform the assigned duty; and”; and

- (b) by the substitution for subsection (3) of the following of subsection:

“(3) The MEC for finance may confirm, vary or revoke any decision taken by the head of the department referred to in section 17(1)(b), as a result of a delegation or instruction in terms of subsection (1), or by a treasury official or accounting officer **[or accounting authority]** as a result of an authorisation in terms of subsection (2)(b), subject to any rights that may have become vested as a consequence of the decision.”.

Amendment of section 21 of Act 1 of 1999, as inserted by section 6 of Act 29 of 1999

20. Section 21 of the Public Finance Management Act, 1999, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following subsection:

- “(a) all money received by the provincial government must, **[promptly]** within 14 days, be paid into the Fund, except money reasonably excluded by this Act or another Act of Parliament; and”.

Repeal of section 23 of Act 1 of 1999, as inserted by section 6 of Act 29 of 1999

21. Section 23 of the Public Finance Management Act, 1999, is hereby repealed.

Amendment of section 24 of Act 1 of 1999, as inserted by section 6 of Act 29 of 1999

22. Section 24 of the Public Finance Management Act, 1999, is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) A provincial treasury, in accordance with a prescribed framework, may invest temporarily in the Corporation for Public Deposits or the Republic, money in the province’s Provincial Revenue Fund that is not immediately needed.”.

Amendment of section 27 of Act 1 of 1999, as amended by section 10 of Act 29 of 1999

23. Section 27 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The Minister must table the annual budget together with the fiscal framework for a financial year in the National Assembly before the start of that financial year or, in exceptional circumstances, on a date as soon as possible after the start of that financial year, as the Minister may determine.”;

- (b) by the deletion of paragraphs (a) and (b) of subsection (3);

- (c) by the substitution for paragraphs (g) and (h) of subsection (3) of the following paragraphs:

“(g) proposals for financing any anticipated deficit for that financial year which must include a debt sustainability analysis in accordance with the prescribed format;

(h) an indication of intentions regarding borrowing and other forms of public liability that will increase public debt during that financial year and future financial years, which must be consistent with the fiscal plan adopted in terms of section 32A and explain how the borrowing—

(i) is consistent with fiscal sustainability;

(ii) maintains public debt on a stable or declining path as a ratio of the gross domestic product or, where it does not, gives effect to the fiscal plan’s credible plan to return debt to such a path; and

(iii) affects debt-service costs as a percentage of main budget revenue;”

- (d) by the deletion of the word “and” at the end of the paragraph (i) of subsection (3);

- (e) by the insertion after paragraph (i) of subsection (3) of the following paragraphs:

“(iA) multi-year budget information which must include a fiscal framework and debt trajectory analysis showing how current budget proposals will affect debt levels over the medium to long term;

(iB) an explanation of how the appropriations are consistent with the fiscal plan adopted in terms of section 32A and, where they are not, the reasons and any corrective measures; and”; and

(f) by the deletion of subsection (4).

Amendment of section 28 of Act 1 of 1999, as amended by section 11 of Act 29 of 1999

24. Section 28 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the deletion of the word “and” at the end of the paragraph (a) of subsection (1);
- (b) by the substitution for the full stop after paragraph (b) of subsection (1) of the expression “; and”;
- (c) by the addition in subsection (1) of the following paragraph:

“(c) the debt to the gross domestic product ratio and debt servicing costs for each year.”; and

(d) by the substitution for subsection (2) of the following subsection:

“(2) A multi-year budget projection tabled by the Minister must include—

- (a) the key macro-economic assumptions, including economic growth and inflation, which constitute the macro-economic forecast of government;
- (b) fiscal projections of revenue, expenditure, public debt and debt-service costs over the medium term, based on that forecast, prevailing market interest rates and current policy, underpinning the debt sustainability analysis; and
- (c) sensitivity analyses showing the impact of different economic and interest-rate scenarios on debt sustainability.”.

Amendment of section 29 of Act 1 of 1999, as amended by section 12 of Act 29 of 1999

25. Section 29 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) If an annual budget is not passed before the start of the financial year to which it relates, funds may be withdrawn in accordance with this section from the relevant Revenue Fund for the [services] requirements of the state or the province concerned during that financial year as direct charges against the Fund until the budget is passed.”; and

(b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) may be utilised, [only for services] subject to such conditions that the relevant treasury may impose, for [which funds were appropriated in the previous annual budget or adjustments budget] the requirements of the state; and”.

Amendment of section 30 of Act 1 of 1999

26. Section 30 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for paragraph (f) of subsection (2) of the following paragraph:

“(f) the utilisation of **[savings]** unspent funds under a main division of a vote for the defrayment of excess expenditure under another main division of the same vote in terms of section 43; and”;

(b) by the addition of the following subsection:

“(3) The Minister must, when tabling an adjustment budget, table an explanation of how the appropriations are consistent with the fiscal plan adopted in terms of section 32A and, where they are not, the reasons and any corrective measures.”.

Amendment of section 32 of Act 1 of 1999, as amended by section 14 of Act 29 of 1999

27. Section 32 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Within 30 days after the end of each month, the **[National Treasury]** Accountant-General must publish in the national *Government Gazette* a statement of actual revenue and expenditure with regard to the National Revenue Fund.”; and

(b) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“(4) The **[National Treasury]** Accountant-General may determine—”.

Insertion of section 32A in Act 1 of 1999

28. The following section is hereby inserted after section 32 of the Public Finance Management Act, 1999:

“Fiscal sustainability and fiscal plan

32A. (1) To give effect to fiscal sustainability, government must seek to maintain public debt on a stable or declining path as a ratio of gross domestic product or, where it is not on such a path, must give effect to the strategy set out in the fiscal plan to return debt to such a path.

(2) Cabinet must approve the fiscal plan that is consistent with fiscal sustainability.

(3) The Minister must—

(a) prepare the fiscal plan;

(b) submit the fiscal plan to Cabinet for approval;

(c) table the approved fiscal plan in Parliament; and

- (d) monitor the implementation of the fiscal plan.
- (4) The fiscal plan contemplated in subsection (3)(a) must set out:
 - (a) The fiscal direction that Cabinet intends to follow;
 - (b) how the fiscal plan gives effect to fiscal sustainability;
 - (c) the targeted path of the main budget primary balance, the main budget balance and public debt over that period;
 - (d) in relation to any material debt-financed investment included in the fiscal plan, the expected economic growth or public service benefits, the principal delivery and cost risks, and the expected effect on public debt and debt service costs;
 - (e) the composition of the fiscal strategy, including the expected path of capital and current expenditure, and how the strategy is expected to affect economic growth and protect macro-economic stability;
 - (f) fiscal risks;
 - (g) any planned governance, economic or public finance reforms intended to improve economic performance or the efficiency and effectiveness of public spending; and
 - (h) the operational indicators chosen.
- (5) A fiscal plan is effective until a new fiscal plan is tabled in Parliament.
- (6) Cabinet must, within 90 days after the members of the Cabinet assume office, approve a fiscal plan.
- (7) The Minister must table the approved fiscal plan in Parliament within 14 days after it was approved as contemplated in subsection (6).
- (8) The Minister may deviate from the fiscal plan if the economic position has changed materially, and the Minister must, within 14 days, furnish reasons to Cabinet and Parliament, for the deviation.”.

Amendment of section 33 of Act 1 of 1999, as substituted by section 15 of Act 29 of 1999

29. Section 33 of the Public Finance Management Act, 1999, is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“The relevant treasury, subject to any conditions—”.

Amendment of section 34 of Act 1 of 1999, as substituted by section 16 of Act 29 of 1999

30. Section 34 of the Public Finance Management Act, 1999, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) If Parliament or a provincial legislature does not approve, in terms of subsection (1)(a), an additional amount for the amount of any overspending, that amount becomes a charge against the funds allocated for the next or future financial years under the relevant vote as determined by Parliament or a provincial legislature.”.

Substitution of section 35 of Act 1 of 1999, as inserted by section 17 of Act 29 of 1999

31. The following section is hereby substituted for section 35 of the Public Finance Management Act, 1999:

“Unfunded mandates

35. If draft national legislation proposes to assign an additional function or power to, or imposes any other obligation on, an institution, a memorandum introduced in Parliament with that legislation must give a projection of the financial implications of that function, power or obligation to the institution.”.

Amendment of section 38 of Act 1 of 1999, as amended by section 19 of Act 29 of 1999

32. Section 38 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for subparagraphs (i) and (ii) of paragraph (a) of subsection (1) of the following subparagraphs:

- “(i) effective, efficient and transparent systems of financial management, financial risk management, internal control and compliance;
- (ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations **[and instructions]** prescribed in terms of sections 76 and 77;”;

(b) by the substitution for subparagraph (ii) of paragraph (c) of subsection (1) of the following subparagraph:

- “(ii) prevent unauthorised, irregular and fruitless and wasteful expenditure **[and losses resulting from criminal conduct]**; and”;

(c) by the insertion after paragraph (c) of the following paragraph:

- “(cA) may not pay in advance for goods, services or assets except if otherwise prescribed;”;

(d) by the substitution for paragraph (h) of subsection (1) of the following paragraph:

- “(h) must take effective and appropriate disciplinary steps against any official in the service of the department, trading entity or constitutional institution within the prescribed timeframe who—”;

(e) by the deletion of paragraph (j) of subsection (1);

(f) by the substitution for paragraph (k) of subsection (1) of the following paragraph:

- “(k) must monitor and enforce compliance with any prescribed conditions if the department, trading entity or constitutional institution gives financial assistance to any entity or person;”;

(g) by the substitution for paragraph (m) of subsection (1) of the following subsection:

- “(m) must promptly consult and **[seek]** obtain prior written **[consent]** approval of the National Treasury on any new entity which the department or constitutional institution intends to establish or in the establishment of which it took the initiative; **[and]**”

- (h) by the substitution for the full stop after paragraph (n) of subsection (1) of the expression “; and”;
- (i) by the addition in subsection (1) of the following paragraphs:
 - “(o) must promote the use of—
 - (i) technology for the implementation of this Act; and
 - (ii) different components of financial management, financial risk management and internal control system referred to in paragraph (a)(i); and
 - “(p) must support the implementation of fiscal sustainability and the fiscal plan by providing financial management information and risk management.”; and
- (j) by the addition of the following subsection:
 - “(3) An accounting officer or official of a department, trading entity or constitutional institution is not criminally or civilly liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power or duty in terms of this Act.”.

Insertion of section 38A in Act 1 of 1999

33. The following section is hereby inserted after section 38 of the Public Finance Management Act, 1999:

“Fiduciary responsibilities of accounting officers

38A. The accounting officer of a department, trading entity or constitutional institution must—

- (a) act with fidelity, honesty, integrity and in the best interests of the department, trading entity or constitutional institution in managing its financial affairs;
- (b) on request, disclose to the executive authority of the institution all material facts which are available to the accounting officer or reasonably discoverable, and which in any way might influence the decisions or actions of the executive authority relating to the institution; and
- (c) seek, within the sphere of influence of that accounting officer, to prevent any prejudice to the financial interests of the institution.”.

Insertion of section 39A in Act 1 of 1999

34. The following section is hereby inserted after section 39 of the Public Finance Management Act, 1999:

“Accounting officers’ responsibilities relating to budgetary control for constitutional institutions and trading entities

39A. (1) The accounting officer of a trading entity or constitutional institution is responsible for ensuring that expenditure of that trading entity or constitutional institution is in accordance with the budget.

(2) A trading entity or constitutional institution may not retain cash surpluses except with the prior written approval of the National Treasury.

(3) If the National Treasury does not approve the retention of cash surplus in terms of subsection (2), the surplus must be surrendered to the National Revenue Fund.

(4) If the National Treasury approves the retention of cash surplus in terms of subsection (2), the National Treasury may impose conditions on the utilisation of the surplus.”.

Amendment of section 40 of Act 1 of 1999, as amended by section 21 of Act 29 of 1999

35. Section 40 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) must prepare financial statements for each financial year in accordance with the generally recognised accounting practice, unless the Minister approves the application of a different standard in respect of departments;”;

(b) by the insertion after paragraph (c) of subsection (1) of the following paragraph:

“(cA) must submit the audited financial statements to the relevant treasury four months after the end of the financial year;”;

(c) by the deletion of paragraph (e) of subsection (1);

(d) by the substitution for subsection (2) of the following subsection:

“(2) (a) The Auditor-General must audit the financial statements referred to in subsection (1)(b) and submit an audit report on those statements to the accounting officer within two months of the receipt of the statements.

(b) If the Auditor-General is unable to complete an audit within two months of receiving the financial statements from an accounting officer, the Auditor-General must promptly submit a report outlining the reasons for the delay to Parliament and notify the relevant accounting officer.”;

(e) by the substitution for subsection (3) of the following subsection:

“(3) The audited financial statements referred to in subsection (1)(d) must—

(a) fairly present the state of affairs of the department, trading entity or constitutional institution, its business, its financial results and its financial position as at the end of the financial year concerned; and

(b) include particulars of any other matters that may be prescribed in terms of section 76.”;

(f) by the insertion after subsection (3) of the following subsection:

“(3A) The annual report referred to in subsection (1)(d)(i) must contain—

- (a) annual financial statements;
- (b) performance against predetermined objectives;
- (c) a compliance report indicating—
 - (i) any financial loss through criminal conduct and any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year;
 - (ii) any financial loss, referred to in subparagraph (i), recovered or written off; and
 - (iii) any criminal or disciplinary steps taken as a result of any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure; and
- (d) information as may be prescribed in terms of section 76 or 91(1)(b).”;

(g) by the substitution for paragraph (c) of subsection (4) of the following paragraph:

“(c) within 15 days of the end of each month, confirm the information for that month, and submit to the relevant treasury and the executive authority responsible for that department—

[(i) the information for that month;]

- (ii) a projection of expected expenditure and revenue collection for the remainder of the current financial year; and
- (iii) when necessary, an explanation of any material variances and a summary of the steps that are taken to ensure that the projected expenditure and revenue remain within budget.”; and

(h) by the substitution for subsection (5) of the following subsection:

“(5) If an accounting officer is unable to comply with any of the responsibilities determined for accounting officers in this Part, the accounting officer must, **[promptly]** within 14 days of making such a determination, report the inability, together with reasons, to the relevant executive authority and treasury.”.

Substitution of section 42 of Act 1 of 1999, as substituted by section 23 of Act 29 of 1999

36. The following section is hereby substituted for section 42 of the Public Finance Management Act, 1999:

“Accounting officers’ responsibilities when assets and liabilities are transferred

42. (1) When assets or liabilities of a department are transferred to another department or any other [institution] person in terms of legislation or following a reorganisation of functions, the accounting officer for the transferring department must—

- (a) draw up an inventory of such assets and liabilities; and

(b) provide the accounting officer for the receiving department or any other [institution] person with substantiating records, including personnel records of staff to be transferred.

(2) Both the accounting officer for the transferring department and the accounting officer for the receiving department or any other [institution] person must sign the inventory **[when the transfer takes place]** within the prescribed period.

(3) The accounting officer for the transferring department must file a copy of the signed inventory with the relevant treasury and the Auditor-General within 14 days of the **[transfer]** signature of the inventory.”.

Substitution of section 43 of Act 1 of 1999, as amended by section 24 of Act 29 of 1999

37. The following section is substituted for section 43 of the Public Finance Management Act:

“Virement of unspent funds within votes

43. (1) An accounting officer for a department may utilise unspent funds in the amount appropriated under a main division within a vote towards the defrayment of anticipated excess expenditure for any purpose—

(a) within the same main division of the vote; or

(b) under another main division of the vote.

(2) The amount of unspent funds under a main division of a vote that may be utilised in terms of subsection (1)(b), may not exceed eight per cent of the amount appropriated under that main division.

(3) An accounting officer must within seven days submit a report containing the prescribed particulars concerning the utilisation of unspent funds in terms of subsection (1), to the executive authority responsible for the department and to the relevant treasury.

(4) An accounting officer for a department may only utilise, in terms of subsection (1), unspent funds in an amount appropriated for—

(a) transfers and subsidies;

(b) payment for capital assets; or

(c) payment for financial assets.

for any purpose within the same vote with the approval of the relevant treasury.

(5) The amount appropriated for compensation of employees within a vote may only be increased with the approval of the relevant treasury.

(6) Transfers and subsidies may only be increased with the approval of the relevant treasury.

(7) New transfers and subsidies may only be introduced with the approval of the relevant treasury.

(8) The utilisation of unspent funds in terms of subsection (1) is a direct charge against the relevant Revenue Fund provided that, in the case of a province, that province enacts such utilisation as a direct charge.”.

Insertion of section 43A in Act 1 of 1999

38. The following section is hereby inserted after section 43 of the Public Finance Management Act, 1999:

“Transfers of funds

43A. (1) An accounting officer must have and maintain an appropriate system to ensure that transfers and subsidies are applied for their intended purpose.

(2) A system of transfers and subsidies must ensure that there is—

- (a) regular reporting by the transferee of financial and non-financial information;
- (b) internal and external assurance requirements of information referred to in paragraph (a);
- (c) inspections;
- (d) review of performance; and
- (e) any other control measures that may be necessary.

(3) An accounting officer may withhold funds allocated for transfers and subsidies, if the accounting officer is satisfied that—

- (a) conditions imposed by the Minister in respect of the transfer and subsidy have not been complied with;
- (b) the funds are no longer required; or
- (c) the transfer and subsidy do not provide value for money in relation to its purpose.

(4) This section does not apply to the transfer of conditional allocations made in terms of the annual Division of Revenue Act.”.

Amendment of section 44 of Act 1 of 1999, as amended by section 25 of Act 29 of 1999

39. Section 44 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The accounting officer for a department, trading entity or constitutional institution, in writing, may—

- (a) **[in writing]** delegate any of the powers entrusted or delegated to the accounting officer in terms of this Act, to an official in that department, trading entity or constitutional institution; **[or]**
- (b) instruct any official in that department, trading entity or constitutional institution to perform any of the duties assigned to the accounting officer in terms of this Act~~[.]~~; or
- (c) authorise an official contemplated in paragraph (a) or (b) to sub-delegate, the delegated power or instruction to another suitable official of the department, trading entity or constitutional institution.”; and

- (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) is subject to any limitations and conditions **[prescribed in terms of this Act or]** as the relevant treasury may impose;”.

Insertion of section 45A in Act 1 of 1999

40. The following section is hereby inserted in the Public Finance Management Act, 1999, after section 45:

“Chief financial officer

45A. The accounting officer of a department, constitutional institution or trading entity must appoint an official with appropriate qualifications and experience as the chief financial officer of the department, constitutional institution or trading entity to assist the accounting officer in fulfilling responsibilities in terms of this Act.”.

Amendment of section 47 of Act 1 of 1999, as substituted by section 26 of Act 29 of 1999

41. Section 47 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Minister must, by notice in the national *Government Gazette*—

(a) list public entities in Schedule 2 or 3 that are not listed;

(b) make technical changes to the list; and

(c) specify any transitional arrangements in respect of paragraph (a) or (b).”; and

(b) by the substitution for subsection (2) of the following subsection:

“(2) The **[accounting authority for]** board or controlling body of a public entity that is not listed in either Schedule 2 or 3 must, without delay, notify the National Treasury, in writing, that the public entity is not listed.”.

Amendment of section 48 of Act 1 of 1999, as substituted by section 27 of Act 29 of 1999

42. Section 48 of the Public Finance Management Act, 1999 is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Minister may by notice in the national *Government Gazette* classify public entities listed in Schedule 2 or 3 in accordance with the relevant definitions set out in section 1, as—

(a) national government business enterprises;

(aA) national government business enterprise which is a major public entity;

(b) provincial government business enterprises;

(c) national public entities; and

(d) provincial public entities.”; and

(b) by the addition of the following subsection:

“(3) The Minister may prescribe the application of this section, including—
(a) the reclassification of any public entity listed in Schedule 2 or 3; and
(b) disestablishment of any public entity listed in Schedule 2 or 3.”.

Substitution of heading to Part 2 of Chapter 6 of Act 1 of 1999

43. The following heading is hereby substituted for the heading to Part 2 of Chapter 6 of the Public Finance Management Act, 1999:

“Part 2
Duties and responsibilities of accounting officers, boards or controlling bodies of
public entities”.

Amendment of section 49 of Act 1 of 1999

44. Section 49 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for the heading of the following heading:

“Accounting [authorities] officers and boards or controlling bodies for public entities”;

(b) by the substitution for subsection (1) of the following subsection:

“(1) Every public entity must have an **[authority]** accounting officer which must be accountable for the purposes of this Act.”;

(c) by the substitution for subsection (2) of the following subsection:

“(2) Subject to subsection (3), the chief executive officer or other person in charge of the public entity in terms of the legislation applicable to that public entity is the accounting officer.”;

(d) by the substitution for subsection (3) of the following subsection:

“(3) The relevant treasury, in exceptional circumstances, may approve or instruct that another functionary **[of a]** within the public entity must be the accounting **[authority]** officer for that public entity or, if there is no suitable functionary, any functionary of another institution.”;

(e) by the substitution for subsection (5) of the following subsection:

“(5) A public entity must inform the Auditor-General **[promptly]** within 14 days and in writing of any approval or instruction in terms of subsection (3) and any withdrawal of an approval or instruction in terms of subsection (4).”; and

(f) by the addition of the following subsections:

“(6) The employment contract of an accounting officer for a public entity must be in writing, and include performance standards and where

appropriate, sections 51 to 56 must be regarded as forming part of each performance contract.

(7) If an accounting officer is absent or otherwise unable to perform the functions of accounting officer, or there is a vacancy, the functions of accounting officer must be performed by the official acting in the place of that accounting officer.”.

Amendment of section 50 of Act 1 of 1999

45. Section 50 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for the heading of the following heading:

“Fiduciary duties of [accounting authorities] boards or controlling bodies of public entities”;

(b) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“(1) The **[accounting authority for]** board or controlling body of a public entity must—”;

(c) by the substitution for subsection (2) of the following subsection:

“(2) A member of **[an accounting authority or, if the accounting authority is not a board or other body, the individual who is the accounting authority]** a board or controlling body, may not—

- (a) act in a way that is inconsistent with the responsibilities assigned to **[an accounting authority]** a board or controlling body in terms of this Act; or
- (b) use the position or privileges of, or confidential information obtained as, **[accounting authority or]** a member of **[an accounting authority]** a board or controlling body, for personal gain or to improperly benefit another person.”; and

(d) by the substitution for subsection (3) of the following subsection:

“(3) A member of **[an accounting authority]** a board or controlling body must—

- (a) disclose to the **[accounting authority]** chairperson of the board or controlling body any direct or indirect personal or private business interest that that member or any spouse, partner or close family member may have in any matter before the board or controlling body; and
- (b) withdraw from the proceedings of the **[accounting authority]** board or controlling body when that matter is considered **[unless the accounting authority decides that the member’s direct or indirect interest in the matter is trivial or irrelevant]**.”.

Amendment of section 51 of Act 1 of 1999, as amended by section 29 of Act 29 of 1999

46. Section 51 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for the heading of the following heading:
“General responsibilities of accounting [authorities] officers of public entity”;
- (b) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:
“(1) An accounting [authority] officer for a public entity—”;
- (c) by the substitution for subparagraphs (i) and (ii) of paragraph (a) of subsection (1) of the following subparagraphs:
 - “(i) effective, efficient and transparent systems of financial management, financial risk management [and], internal control and compliance;**
 - “(ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations [and instructions] prescribed in terms of sections 76 and 77;”;**
- (d) by the substitution for subparagraph (ii) of paragraph (b) of subsection (1) of the following subparagraph:
“(ii) prevent irregular expenditure [,] and fruitless and wasteful expenditure [, losses resulting from criminal conduct and expenditure not complying with the operational policies of the public entity]; and;”;
- (e) by the insertion after paragraph (b) of the following paragraph:
“(cA) may not pay in advance for goods or services, except if otherwise prescribed;”;
- (f) by the substitution for paragraph (e) of subsection (1) of the following paragraph:
“(e) must take effective and appropriate disciplinary steps against any employee of the public entity, within a prescribed timeframe, who—”;
- (g) by the deletion of paragraph (g) of subsection (1);
- (h) by the substitution for the full stop after paragraph (h) of subsection (1) of the expression “;”;
- (i) by the addition in subsection (1) of the following paragraphs:
 - “(i) must settle all contractual obligations and pay all money owing, including inter-governmental claims, within the prescribed or agreed period; and**
 - (i) may promote the use of—**
 - (i) technology for the implementation of this Act; and**
 - (ii) different components of financial management, financial risk management and internal control system referred to in paragraph (a)(i).”;** and

- (j) by the substitution for subsection (2) of the following subsection:

“(2) An accounting officer or official of a public entity is not criminally or civilly liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power or duty in terms of this Act.”.

Amendment of section 52 of Act 1 of 1999, as amended by section 30 of Act 29 of 1999

47. Section 52 of the Public Finance Management Act, 1999, is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“The accounting **[authority]** officer for a public entity listed in Schedule 2 or a government business enterprise listed in Schedule 3 must submit to the accounting officer for a department designated by the executive authority responsible for that public entity or government business enterprise, and to the relevant treasury, at least one month, or another period agreed with the National Treasury, before the start of its financial year—”.

Amendment of section 53 of Act 1 of 1999, as amended by section 31 of Act 29 of 1999

48. Section 53 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The accounting **[authority]** officer for a public entity listed in Part A or C of Schedule 3 **[which is not a government business enterprise]** must submit to the executive authority responsible for that public entity, at least six months before the start of the financial year of the department designated in terms of subsection (2), **[or another period agreed to between the executive authority and the public entity,]** a budget of estimated revenue and expenditure for that financial year, for approval by the executive authority.”;

- (b) by the insertion after subsection (1) of the following subsection:

“(1A) An adjustment to the budget of a public entity approved in terms of subsection (1) must be approved by the executive authority.”;

- (c) by the substitution for subsection (3) of the following subsection:

“(3) A public entity which must submit a budget in terms of subsection (1), may not budget for a deficit **[and may not accumulate surpluses]** unless prior written approval of the **[National Treasury]** relevant treasury has been obtained before the start of a financial year.”;

- (d) by the insertion after subsection (3) of the following subsections:

“(3A) A public entity listed in Part A or C of Schedule 3 may not retain cash surpluses accumulated during a financial year unless prior written approval of the relevant treasury has been obtained.”

(3B) If the relevant treasury does not approve the retention of the cash surpluses by a public entity in terms of subsection (3A), the public entity must surrender the surpluses to the relevant Revenue Fund.

(3C) Subsection (3A) does not apply to a public entity insofar as it receives funds through a tax, levy, duty or surcharge imposed in terms of legislation contemplated in section 77 or 120 of the Constitution and to be used for a purpose determined in that legislation.

(3D) A public entity contemplated in subsection (3C) must report to the relevant treasury any accumulated surpluses and how the accumulated surplus will be utilised.”; and

- (e) by the deletion of subsection (5).

Amendment of section 54 of Act 1 of 1999, as amended by section 31 of Act 29 of 1999

49. Section 54 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for the heading of the following heading:

“Information to be submitted by accounting [authorities] officers”;

- (b) by the substitution for subsection (1) of the following subsection:

“(1) The accounting **[authority] officer** for a public entity must submit to the relevant treasury or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as the relevant treasury or the Auditor-General may require.”;

- (c) by the substitution for subsection (2) for the words preceding paragraph (a) of the following words:

“Before a public entity concludes any of the following transactions, the accounting **[authority] officer** 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.”;

- (d) by the substitution for subsection (3) of the following subsection:

“(3) The approval of the transaction by the executive authority in terms of subsection (2) must be with the concurrence of, and subject to any conditions imposed by, the relevant treasury.”;

- (e) by the substitution for subsection (4) of the following subsection:

“(4) Before the start of each financial year, a public entity must submit acceptable levels of significance and materiality approved by the executive authority for concurrence of the Minister.”; and

- (f) by the addition of the following subsection:

“(5) A public entity must—

- (a) on request, provide the National Treasury with a statement of guarantees, contingent liabilities and other material fiscal exposures, including the entity's assessment of the value at risk or other quantified measure of its potential fiscal exposure;
- (b) disclose the economic growth, revenue and other key assumptions underlying its corporate plan, and
- (c) on request, provide the National Treasury with any further information reasonably required to assess those exposures.”.

Amendment of section 55 of Act 1 of 1999, as amended by section 32 of Act 29 of 1999

50. Section 55 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“(1) The accounting **[authority]** officer for a public entity—”;

- (b) by the substitution for paragraphs (b) of subsection (1) of the following paragraph:

“(b) prepare financial statements for each financial year in accordance with generally **[accepted]** recognised accounting practice, unless the Accounting Standard Board **[approves the application of generally recognised accounting practice for that public entity]** determines otherwise in terms of section 89(1)(b);

- (c) by the substitution for subparagraph (ii) of paragraph (c) of subsection (1) of the following subparagraph:

“(ii) if it is a business enterprise or other public entity under the **[ownership]** control of the national or a provincial government, to the relevant treasury for consolidation; [and]”;

- (d) by the insertion after paragraph (c) of subsection (1) of the following paragraph:

“(cA) must submit the audited financial statement to the relevant treasury four months after the end of the financial year; and”;

- (e) by the insertion after subsection (1) of the following subsection:

“(1A) If the auditor is unable to complete an audit within two months of receiving the financial statements from an accounting officer, the auditor must promptly submit a report outlining the reasons for the delay to Parliament and notify the relevant accounting officer.”;

- (f) by the substitution for subsection (2) of the following subsection:

“(2) The financial statements referred to in subsection (1)(d) must—

- (a) fairly present the state of affairs of the public entity, its business, its financial results and its financial position as at the end of the financial year concerned;
- (b) include particulars of—

- (i) any financial assistance received from the state and commitments made by the state on its behalf; and
- (ii) any other matters that may be prescribed; and
- (c) include the financial statements of any subsidiaries.”;

(g) by the insertion after subsection (2) of the following subsection:

“(2A) The annual report referred to in subsection (1)(d)(i) must contain—

- (a) the annual financial statements;
- (b) the performance against predetermined objectives;
- (c) a compliance report indicating—
 - (i) any financial loss through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year;
 - (ii) any financial loss, referred to in subparagraph (i), recovered or written off; and
 - (iii) any criminal or disciplinary steps taken as a result of any irregular expenditure and fruitless and wasteful expenditure; and
- (d) information as may be prescribed in terms of section 76 or 91(1)(b).”;

(h) by the substitution for subsection (3) of the following subsection:

“(3) An accounting **[authority]** officer must submit the report and statements referred to in subsection (1)(d), for tabling in Parliament or the provincial legislature, to the relevant executive authority through the accounting officer of a department designated by the executive authority.”; and

(i) by the substitution for subsection (4) of the following subsection:

“(4) The relevant treasury may direct that, instead of a separate audited financial statement, the audited financial statements of a Schedule 3 public entity **[which is not a government business enterprise]** must be incorporated in those of a department designated by that treasury.”.

Amendment of section 56 of Act 1 of 1999

51. Section 56 of the Public Finance Management Act, 1999, is hereby amended—

(a) by the substitution for the heading of the following heading:

“Assignment of powers and duties by accounting **[authorities] officers”;**

(b) by the substitution for subsection (1) of the following subsection:

“(1) The accounting **[authority]** officer for a public entity, in writing, may—

- (a) **[in writing]** delegate any of the powers entrusted or delegated to the accounting **[authority]** officer in terms of this Act, to an official in that public entity; **[or]**

- (b) instruct any official in that public entity to perform any of the duties assigned to the accounting **[authority] officer** in terms of this Act~~[,]~~; or
 - (c) authorise an official contemplated in paragraph (a) or (b) to sub-delegate, in writing, the delegated power or instruction to another suitable official of the public entity.; and
- (c) by the substitution for subsection (3) of the following subsection:
- “(3) The accounting **[authority] officer** may confirm, vary or revoke any decision taken by an official as a result of a delegation or instruction in terms of subsection (1), subject to any rights that may have become vested as a consequence of the decision.”.

Insertion of section 56A in Act 1 of 1999

52. The following section is hereby inserted after section 56 of the Public Finance Management Act, 1999:

“Assignment of powers and duties by board or controlling body

- 56A.** (1) The board or controlling body of a public entity, in writing, may—
- (a) delegate any of the powers entrusted or delegated to the board or controlling body in terms of this Act, to an official of that public entity;
 - (b) instruct the official of that public entity to perform any of the duties assigned to the board or controlling body in terms of this Act; and
 - (c) authorise the official to sub-delegate, in writing, the delegated power or instruction to another suitable official of the public entity.
- (2) A delegation or instruction in terms of subsection (1)—
- (a) is subject to any limitations and conditions the board or controlling body may impose;
 - (b) may either be to a specific individual or to the holder of a specific post in the relevant public entity; and
 - (c) does not divest the board or controlling body of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.
- (3) The board or controlling body may confirm, vary or revoke any decision taken by an official as a result of a delegation or instruction in terms of subsection (1), subject to any rights that may have become vested as a consequence of the decision.”.

Insertion of sections 57A in Act 1 of 1999

53. The following section is hereby inserted after section 57 of the Public Finance Management Act, 1999:

“Chief financial officer

- 57A.** The accounting officer of a public entity must appoint an official with appropriate qualifications and experience as the chief financial officer of the public entity to assist the accounting officer in fulfilling their responsibilities in terms of this Act.”.

Insertion of Part 3A in Chapter 6 of Act 1 of 1999

54. The following Part is hereby inserted after Part 3 of Chapter 6 of the Public Finance Management Act, 1999:

"Part 3A

Financially distressed public entities

Intervention by Minister

57B. (1) The Minister, after consultation with the executive authority responsible for a public entity, may direct the public entity to take any action if the public entity—

(a) is financially distressed; or

(b) has failed to comply with this Act.

(2) A directive contemplated in subsection (1) must state—

(a) the nature of the financial distress or reasons for the failure to comply with this Act;

(b) the steps which must be taken to remedy the situation; and

(c) a reasonable period within which the steps contemplated in paragraph (b) must be taken.

(3) If the public entity fails to remedy the situation in terms of subsection (2)(b), the Minister, after consultation with the executive authority responsible for the public entity, may appoint a suitably qualified person as an administrator of the public entity.

(4) If the Minister appoints an administrator in terms of subsection (3)—

(a) the powers and duties conferred on the board or controlling body and the accounting officer in terms of this Act in respect of the public entity concerned vests in the administrator, subject to the supervision of the Minister, and the board or controlling body of that public entity is divested thereof;

(b) the board or controlling body and the accounting officer, while the administrator is responsible for the public entity, may not exercise any of their powers or perform any of their duties;

(c) an official or a contractor of the public entity must comply with a directive given by the administrator.

(5) The costs associated with the appointment of an administrator must be for the account of the public entity or the department designated by the executive authority.

(6) The relevant executive authority must—

(a) review the performance of the public entity regularly while it is under administration; and

(b) within six months of appointing the administrator, after consultation with the Minister, table a report on the review in Parliament.

(7) Once the public entity is financially sound and able to comply with this Act, the Minister must terminate the appointment of the administrator.

(8) This section does not apply to a public entity—

(a) if the specific legislation applicable to that public entity provides for administration or similar arrangement except if the functions of the board or controlling bodies and the accounting officer are not specified in that legislation.

- the provisions regarding the board or controlling bodies and the accounting officers in this section apply; or
 (b) incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008).".

Amendment of section 63 of Act 1 of 1999, as substituted by section 34 of Act 29 of 1999

- 55.** Section 63 of the Public Finance Management Act, 1999, is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
 “(a) Executive authorities **[of departments]** must perform their statutory functions within the limits of the appropriated funds and, when applicable, in accordance with section 29 **[authorised for the relevant vote]**.”; and
- (b) by the substitution for subsection (2) of the following subsection:
 “(2) The executive authority responsible for a public entity under the **[ownership]** control of the national or a provincial executive must exercise that executive’s **[ownership]** control powers to ensure that that public entity complies with this Act and the financial policies of that executive.”.

Substitution of section 64 of Act 1 of 1999, as amended by section 35 of Act 29 of 1999

- 56.** The following section is hereby substituted for section 64 of the Public Finance Management Act, 1999:

“Executive directives having financial implications

- 64.** (1) Any directive by an executive authority to the accounting officer, board or controlling body having financial implications must be in writing.
- (2) If an accounting officer, board or controlling body (herein called “the affected person”) is directed by any person with authority over the affected person (herein called “the person with authority”), to do or omit to do anything, which the affected person believes he or she is not authorised to do in terms of this Act, the affected person must not comply with the directive.
- (3) The affected person must—
- (a) submit in writing to the person with authority, the objection and the reason for the objection; and
- (b) inform—
- (i) the relevant treasury;
- (ii) the National Treasury;
- (iii) the Auditor-General; and
- (iv) the relevant person in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004),
in the prescribed manner, of the directive, the objection and the reason for the objection.
- (4) The relevant treasury must refer the matter envisaged in subsection (3) to the Financial Misconduct Investigation Committee for investigation within 14 days.

(5) The affected person, despite any term of his or her employment, may not be subjected to occupational detriment as defined in section 1 of the Protected Disclosures Act, 2000 (Act No. 26 of 2000), due to the non-compliance with the directive of the person with authority or acting in terms of this section.”.

Amendment of section 65 of Act 1 of 1999, as amended by section 36 of Act 29 of 1999

57. Section 65 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“The executive authority **[responsible for a department or public entity]** must table in the National Assembly or a provincial legislature, as may be appropriate—”;

- (b) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) the annual report and financial statements referred to in section 40(1)(d) or 55(1)(d) and the audit report on those statements, within **[one month]** six months after the accounting officer for the department or **[the accounting authority for]** the public entity received the audit report; and”;

- (c) by the substitution for the words preceding paragraph (a) of subsection (2) of the following words:

“If an executive authority fails to table, in accordance with subsection (1)(a), the annual report and financial statements of the department or the public entity, and the audit report on those statements, in the relevant legislature within **[six]** two months after the end of the financial year to which those statements relate—”;

- (d) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) the Auditor-General may issue a special report to the relevant legislature and the National Treasury on the reasons for the delay of the audit report.”; and

- (e) by the addition of the following subsection:

“(3) The executive authority that has tabled a written explanation in terms of subsection (2)(a) must comply with subsection (1)(a) within 60 days from the date that a written explanation was tabled to the relevant legislature.”.

Insertion of Chapter 7A in Act 1 of 1999

58. The following Chapter is hereby inserted after Chapter 7 of the Public Finance Management Act, 1999:

“CHAPTER 7A

FISCAL MEASURES FOR CONDITIONS OF SERVICE

Concurrence of Minister for determinations of conditions of service for officials of institutions

65A. (1) Despite any legislation to the contrary and in addition to the requirements of the specific legislation applicable to that institution and the Labour Relations Act, 1995 (Act No. 66 of 1995), any conditions of service for officials in general, or a particular category of officials, of the institution must be determined with the concurrence of the Minister.

(2) For purposes of subsection (1), 'conditions of service' means remuneration, salaries, salary scales or levels, allowances, performance bonuses, pay incentives, or any other remunerative benefits, or pension benefits, or any adjustments to any such conditions of service.

Concurrence of Minister for determinations of remuneration for members of boards or controlling bodies of public entities

65B. (1) Despite any legislation to the contrary and in addition to the requirements of the specific legislation applicable to the institution, any conditions of service for accounting officers, members of the board or other controlling body of a public entity must be determined with the concurrence of the Minister.

(2) For purposes of subsection (1), 'conditions of service' means remuneration, including annual remuneration adjustments, allowances or any other remunerative benefits, or any adjustments to any such conditions of service."

Amendment of section 66 of Act 1 of 1999, as amended by section 37 of Act 29 of 1999

59. Section 66 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
 - “(c) in the case of loans by a province or a provincial government business enterprise under the **[ownership]** control of a provincial executive, is within the limits as set in terms of the Borrowing Powers of Provincial Governments Act, 1996 (Act No. 48 of 1996).”;
- (b) by the substitution for paragraphs (a) and (b) of subsection (3) of the following paragraphs:
 - “(a) A public entity listed in Schedule 2: The **[accounting authority] board or controlling body** for that Schedule 2 public entity with the approval of its executive authority, acting with the concurrence of, and subject to any conditions imposed by, the Minister.
 - (b) A national government business enterprise listed in Schedule 3 and authorised by notice in the national *Government Gazette* by the Minister: The **[accounting authority] board or controlling body** for that government business enterprise, subject to any conditions the Minister may impose.”; and
- (c) by the substitution for subsection (7) of the following subsection:

- “(7) A public entity authorised to borrow money—
- (a) must annually submit to the Minister a borrowing programme for the year; **[and]**
 - (b) may not borrow money in a foreign currency above a prescribed limit[, **except when that public entity is a company in which the state is not the only shareholder.]; and**
 - (c) may borrow subject to such conditions as the Minister may impose.”.

Amendment of section 70 of Act 1 of 1999

60. Section 70 of the Public Finance Management Act, 1999, is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

- “(a) subsection (1)(a), **[is a direct charge against the National Revenue Fund, and any such payment]** must in the first instance be defrayed from the funds budgeted for the department that is concerned with the issue of the guarantee, indemnity or security in question, and thereafter any payment must be defrayed as a direct charge against the National Revenue Fund; and”.

Amendment of section 76 of Act 1 of 1999

61. The following section is hereby substituted for section 76 of the Public Finance Management Act, 1999:

“Regulations and instructions

76.(1) The Minister may make regulations applicable to all institutions to which this Act applies, concerning—

- (a) any matter that must or may be prescribed in terms of this Act;
- (b) institutional arrangements and governance arrangements;
- (c) planning, budgeting, monitoring and reporting;
- (d) establishment of any new entity, merger of entities or unbundling of an existing public entity;
- (e) retention of surpluses;
- (f) virement of unspent funds;
- (g) performance and compliance monitoring and reporting;
- (h) financial management;
- (i) transfer of assets and liabilities;
- (j) financial matters for the effective transfer of functions;
- (k) infrastructure management;
- (l) a framework for an appropriate procurement and provisioning system;
- (m) management of financial losses;
- (n) annual reports;
- (o) annual consolidated financial statements prepared by the relevant treasuries;
- (p) responsibilities, powers and functions of boards or controlling bodies in terms of the Act;
- (q) audit committees, their appointment and their functioning;
- (r) internal audit function, their appointment and their functioning;

- (s) financial risk management and its functioning, financial risk committees, their appointment and their functioning;
 - (t) significance and materiality framework;
 - (u) borrowing, issuing guarantees, indemnities, securities and limitation of liabilities and future financial commitment;
 - (v) donations and sponsorships;
 - (w) assets which accrue to the state by operation of law;
 - (x) minimum competency levels and affiliations to professional bodies of public sector finance officials;
 - (y) a framework to ensure the consistency and interoperability of financial systems; and
 - (z) any procedural or administrative matters that are necessary to implement this Act.
- (2) The National Treasury may—
- (a) issue instructions applicable to institutions to supplement any matter referred to in subsection (1); or
 - (b) on application by an institution, approve a departure, subject to any condition imposed by the National Treasury, from an instruction issued in terms of paragraph (a) and must, within 14 days, inform the Auditor-General in writing.
- (3) Regulations in terms of subsection (1) may prescribe matters for which the prior approval of a treasury must be obtained.
- (4) A regulation or instruction in terms of this section may—
- (a) differentiate between different categories of—
 - (i) institutions to which this Act applies;
 - (ii) accounting officers; or
 - (iii) accounting authorities; or
 - (b) be limited in its application to a specific category of—
 - (i) institutions to which this Act applies;
 - (ii) accounting officers; or
 - (iii) accounting authorities.”.

Insertion of section 76A in Act 1 of 1999

62. The following section is hereby inserted after section 76 of the Public Finance Management Act, 1999:

“Interpretation ruling

76A. (1) The National Treasury may issue a ruling regarding the interpretation or application of this Act (an “interpretation ruling”) to promote clarity, consistency and certainty in the interpretation and application of this Act.

(2) Institutions must interpret and apply the provision of this Act to which the interpretation ruling relates in accordance with the interpretation ruling.

(3) The National Treasury—

(a) must amend or revoke an interpretation ruling if it is necessary to do so because of a court judgment or a change in legislation;

(b) may, on good grounds, amend or revoke an interpretation ruling.

(4) An interpretation ruling issued in terms of subsection (1)—

- (a) must be communicated to the relevant institutions;
- (b) takes effect on the date stated in the ruling; and
- (c) must be published, within five days, on the National Treasury's website;
- (5) Subject to subsection (6), subsection (4) applies with the necessary changes to the amendment or revocation of an interpretation ruling in terms of subsection (3).
- (6) An interpretation ruling ceases to be effective if—
 - (a) a provision of this Act that was the subject of the interpretation ruling is repealed or amended in a manner that materially affects the interpretation ruling, in which case the interpretation ruling ceases to be effective from the date that the repeal or amendment is effective; or
 - (b) a court overturns or modifies an interpretation of this Act on which the interpretation ruling is based, in which case the interpretation ruling ceases to be effective from the date of judgment unless—
 - (i) the decision is under appeal;
 - (ii) the decision is fact-specific and the general interpretation upon which the interpretation ruling was based is unaffected; or
 - (iii) the reference to the interpretation upon which the interpretation ruling was based did not form a part of the reasoning on which the judgment of the court was based.”.

Substitution of section 77 of Act 1 of 1999, as substituted by section 40 of Act 29 of 1999

63. The following section is hereby substituted for section 77 of the Public Finance Management Act, 1999:

“Governance structures

77. (1) The accounting officer must establish an effective and efficient internal audit function and a financial risk management and audit committee that operates independently and in accordance with any minimum requirements as may be prescribed.

(2) The internal audit function, financial risk management and audit committee referred to in subsection (1) may be established for two or more institutions if considered economical by the relevant accounting officers.”.

Substitution of section 78 of Act 1 of 1999

64. The following section is hereby substituted for section 78 of the Public Finance Management Act, 1999:

“Publishing of draft [treasury] regulations for public comment

78. Draft regulations in terms of section 76 must be published for public comment **[in the national *Government Gazette*]** on the National Treasury's website before their enactment.”.

Repeal of section 79 of Act 1 of 1999

65. Section 79 of the Public Finance Management Act, 1999 is hereby repealed.

Amendment of section 80 of Act 1 of 1999, as substituted by section 41 of Act 29 of 1999

66. Section 80 of the Public Finance Management Act, 1999, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) a uniform interest rate applicable to all other debts which must be paid into a Revenue Fund or to a public entity.”.

Amendment of section 81 of Act 1 of 1999

67. Section 81 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the deletion of the word “or” at the end of paragraph (a) of subsection (1);
- (b) by the insertion after paragraph (a) of subsection (1) of the following paragraph:

“(aA) fails to comply with a condition imposed by the Minister; or”; and

- (c) by the substitution for subsection (2) of the following subsection:

“(2) An official of a department, a trading entity or a constitutional institution to whom a power or duty is assigned in terms of section 44 or to whom a responsibility is assigned in terms of section 45, commits an act of financial misconduct if that official wilfully or negligently fails to exercise that power or perform that duty, and such failure results in fruitless and wasteful expenditure, unauthorised expenditure or irregular expenditure or a financial loss from criminal conduct.”.

Amendment of section 83 of Act 1 of 1999

68. Section 83 of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for the heading of the following heading:

“Financial misconduct by accounting [authorities] officers and officials of public entities”;

- (b) by the substitution for subsection (1) of the following subsection:

“(1) The accounting **[authority]** officer for a public entity commits an act of financial misconduct if that accounting **[authority]** officer wilfully or negligently—

- (a) fails to comply with a requirement of section **[50,]** 51, 52, 53, 54, **[or]** 55, 56 or 77; **[or]**

(aA) fails to comply with a condition imposed by the Minister; or

- (b) makes or permits an irregular expenditure or a fruitless and wasteful expenditure or a financial loss from criminal conduct."; and
- (c) by the substitution for subsection (2) of the following subsection:
- "(2) The board or controlling body of a public entity commits financial misconduct if that board or controlling body, or member thereof, willfully or negligently—
- (a) fails to comply with its responsibilities in terms section 50; or
- (b) makes or permits an irregular expenditure, a fruitless and wasteful expenditure or a financial loss from criminal conduct.";
- (d) by the substitution for subsection (3) of the following subsection:
- "(3) An official of a public entity to whom a power or duty is assigned in terms of section 56 or to whom a responsibility is assigned in terms of section 57, commits an act of financial misconduct if that official wilfully or negligently fails to exercise that power or perform that duty, and such failure results in irregular expenditure, a fruitless and wasteful expenditure or a financial loss from criminal conduct."; and
- (e) by the substitution for subsection (4) of the following subsection:
- "(4) Financial misconduct is a ground for dismissal or suspension of, or other sanction against, a [member or] person referred to in subsections [(2) or] (1) to (3) despite any other legislation."

Insertion of section 83A in Act 1 of 1999

69. The following section is hereby inserted after section 83 in the Public Finance Management Act, 1999:

"Financial misconduct by executive authority

83A. (1) An executive authority commits an act of financial misconduct if a directive issued in terms of section 64 result in a fruitless and wasteful expenditure, an unauthorised expenditure or an irregular expenditure or a financial loss from criminal conduct.

(2)(a) If the executive authority committed financial misconduct as envisaged in subsection (1), the accounting officer or board or controlling body must report it to the Minister within 60 days of becoming aware of the financial misconduct.

(b) The Minister after receiving a report in terms of paragraph (a), must report the executive authority to the President or, in the case of a member of a provincial executive council, to the Premier."

Substitution of section 84 of Act 1 of 1999

70. The following section is hereby substituted for section 84 of the Public Finance Management Act, 1999:

“Applicable legal regime for disciplinary proceedings

84. (1) A charge of financial misconduct against an accounting officer or official referred to in section 81 or 83, **[or an accounting authority]** or a member of **[an accounting authority]** a board or controlling body or an official referred to in section 82, must be investigated, heard and disposed of in terms of the statutory or other conditions of appointment or employment applicable to that accounting officer **[or authority]**, or member of a board or controlling body or official, and any regulations prescribed by the Minister in terms of section 85.

(2) Despite any law to the contrary, a disciplinary structure may impose an administrative fine to a maximum amount determined by the Minister by notice in the national Government Gazette, on—

- (a) an accounting officer or official referred to in section 81;
- (b) a treasury official referred to in section 82; or
- (c) an accounting officer, board or controlling body, or member thereof, or an official referred to in section 83.”.

Insertion of sections 84A to 84D in Act 1 of 1999

71. The following sections are hereby inserted after section 84 of the Public Finance Management Act, 1999, :

“Establishment of Financial Misconduct Investigation Committee

84A. (1) The Financial Misconduct Investigation Committee is hereby established and forms part of, and functions within, the National Treasury.

(2) The Financial Misconduct Investigation Committee must investigate allegations of financial misconduct referred to in section 81, 82, 83 or 83A, upon referral by an institution or any other person.

(3) The Financial Misconduct Investigation Committee must refer allegations of a criminal offence, referred to in section 86, or any other criminal offence, to the relevant law enforcement agency for investigation.

Composition of Financial Misconduct Investigation Committee

84B. (1) The Financial Misconduct Investigation Committee consists of not more than 10 members appointed by the Minister.

(2) The Minister must appoint the Chairperson and the Deputy Chairperson of the Financial Misconduct Investigation Committee.

(3) The Minister must prescribe—

- (a) additional functions and powers;
- (b) the requirements for disclosure of conflicts of interest by members; and
- (c) any other matter necessary and incidental to the functioning, of the Financial Misconduct Investigation Committee.

Powers to obtain information for investigation

84C. (1) The Financial Misconduct Investigation Committee may, by written notice, require accounting officer or any other person whom it reasonably believes possesses or is able to provide material relevant to an investigation into financial misconduct contemplated in section 81, 82, 83 or 83A to—

- (a) furnish such information, records, documents, books, electronic records or other material as may be reasonably necessary for purposes of the investigation;
- (b) provide a written explanation or an affidavit concerning the matter under investigation; or
- (c) appear before the Financial Misconduct Investigation Committee to provide material or answer questions relevant to the investigation.

(2) The accounting officer may assign the duty contemplated in subsection (1) to an official.

(3)(a) A notice contemplated in subsection (1) must specify—

- (i) the nature of the material required;
- (ii) the matter to which the material relates;
- (iii) the manner in which the material must be provided;
- (iv) a reasonable period within which the material, written explanation or affidavit must be provided;
- (v) the date to appear before the Financial Misconduct Investigation Committee, if applicable; and
- (vi) consequences of failing to comply with the notice.

(b) A notice issued in terms of this section must be reasonable and relevant to the nature and the purpose of the investigation of the alleged financial misconduct.

(4) The Financial Misconduct Investigation Committee must take reasonable measures to protect confidential, personal and commercially sensitive material obtained in terms of this section and may use that material for purposes of section 81, 82, 83 or 83A.

(5) A person who, without lawful excuse—

- (a) fails to comply with a notice issued in terms of this section;
- (b) intentionally provides information that is false or misleading in a material respect; or
- (c) intentionally destroys, conceals, alters or otherwise interferes with material after receiving a notice in terms of this section,

commits an offence and is liable on conviction to a penalty prescribed in section 86.

(6) If, during an investigation, the Financial Misconduct Investigation Committee has reasonable grounds to suspect that a criminal offence may have been committed, the Committee must refer any relevant material in its possession to the appropriate law enforcement agency.

Amendment of section 85 of Act 1 of 1999, as amended by section 43 of Act 29 of 1999

72. Section 85 of the Public Finance Management Act, 1999, is hereby amended by the deletion of paragraphs (d) and (e) of subsection (1).

Insertion of sections 85A in Act 1 of 1999

73. The following section is hereby inserted after section 85 of the Public Finance Management Act, 1999:

“Compliance order

- 85A. (1) The National Treasury may serve a compliance order on an institution in the prescribed manner if that institution has failed to comply with this Act.
- (2) A compliance order envisaged in subsection (1) must specify—
- (a) the institution to which the order applies;
 - (b) the provisions of this Act which the institution has not complied with and details of the conduct constituting non-compliance;
 - (c) any written undertaking given by the institution and any failure by the institution to comply with the written undertaking;
 - (d) any steps that the institution must take and the period within which those steps must be taken; and
 - (e) any other prescribed information.
- (3) A copy of the compliance order must be served on the institution named in it.
- (4) An institution must comply with the compliance order within the time period stated in it.
- (5) If an institution does not comply with the compliance order within the stated period, the National Treasury—
- (a) may stop the transfer of funds to that institution in terms of section 6B; and
 - (b) must refer the non-compliance to the Financial Misconduct Investigation Committee referred to in section 84A.”.

Substitution of section 86 of Act 1 of 1999

74. The following section is hereby substituted for section 86 of the Public Finance Management Act, 1999:

“Offences and penalties

86. (1) An accounting officer for a department, constitutional institution or trading entity is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years, if that accounting officer wilfully or in a grossly negligent way fails to comply with a provision of sections 38 to 43 and 77 or makes or permits fruitless and wasteful expenditure, unauthorised expenditure or irregular expenditure or a financial loss from criminal conduct.
- (2) An accounting officer for a public entity is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years, if that accounting officer wilfully or in a grossly negligent way fails to comply with a provision of sections 51 to 55 and 77, or makes or permits fruitless and wasteful expenditure or irregular expenditure or a financial loss from criminal conduct.
- (3) A board or controlling body, or member thereof, is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years, if that board or controlling body, or member thereof, wilfully or in a grossly negligent way fails to comply with its responsibilities in terms of section 50, or makes

or permits fruitless and wasteful expenditure or irregular expenditure or a financial loss from criminal conduct.

(4) An official to whom a power or duty assigned in terms of section 44 or 56, is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years, if that official wilfully or gross negligently permits unauthorised expenditure (in the case of departments), fruitless and wasteful expenditure or irregular expenditure or a financial loss from criminal conduct.

(5) Any person, other than a person referred to in section 66(2) or (3), who purports to borrow money or to issue a guarantee, indemnity or security for or on behalf of a department, public entity or constitutional institution, or who enters into any other contract which purports to bind a department, public entity or constitutional institution to any future financial commitment, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years.”.

Amendment of section 87 of Act 1 of 1999

75. Section 87 of the Public Finance Management Act, 1999 is hereby amended by the addition of the following subsection:

“(3) The chief executive officer of the Accounting Standards Board is its accounting officer.”.

Amendment of section 89 of Act 1 of 1999, as substituted by section 44 of Act 29 of 1999

76. Section 89 of the Public Finance Management Act, 1999 is hereby amended—

- (a) by the insertion after subparagraph (i) of paragraph (a) of subsection (1) of the following subparagraph:

“(iA) trading entity.”;

- (b) by the substitution for subparagraph (iv) of paragraph (a) of subsection (1) of the following subparagraph:

“(iv) municipalities and boards, commissions, companies, corporations, funds or other entities under the [ownership] control of a municipality; and”; and

- (c) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

“(d) perform any other function [incidental] to [advancing] advance financial reporting [in the public sector] by an institution.;

- (d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

In setting the standards, directives and guidelines outlined in subsection (1)(a) and (b), the Board must take into account all relevant factors, including—”;

- (e) by the deletion of the word “and” at the end of the paragraph (a) of subsection (2);

- (f) by the substitution for the full stop after paragraph (b) of subsection (1) of the expression “; and”; and
- (g) by the addition in subsection (2) of the following paragraph:

“(c) consult with the Auditor-General and the National Treasury before issuing standards, directives and guidelines as envisaged in paragraphs (a) and (b).”.

Amendment of section 91 of Act 1 of 1999

77. Section 91 of the Public Finance Management Act, 1999 is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Draft regulations prescribing standards in terms of subsection (1)(b) must be published for public comment in the **[national Government Gazette]** National Treasury’s website before their enactment.”.

Substitution of section 92 of Act 1 of 1999

78. The following section is hereby substituted for section 92 of the Public Finance Management Act, 1999:

“Exemptions

92. The Minister, by notice in the national *Government Gazette*, may, if it is impractical to apply a specific provision of this Act, exempt any institution to which this Act applies, or any category of those institutions, from **[any]** the specific provision[s] of this Act, subject to conditions, for a period determined in the notice.”.

Substitution of Schedule 2 to Act 1 of 1999

79. The following Schedule is hereby substituted for Schedule 2 to the Public Finance Management Act, 1999:

“Schedule 2

MAJOR PUBLIC ENTITIES

Airports Company South Africa SOC Ltd

Air Traffic and Navigation Services Company SOC Ltd

Alexkor SOC Ltd

Armaments Corporation of South Africa SOC Ltd

Broadband Infraco SOC Ltd

CEF SOC Ltd

DENEL SOC Ltd

Development Bank of Southern Africa

ESKOM Holdings SOC Ltd

Independent Development Trust

Industrial Development Corporation of South Africa Limited

Land and Agricultural Development Bank of South Africa

South African Broadcasting Corporation SOC Ltd

South African Forestry Company SOC Ltd

South African Nuclear Energy Corporation Limited

South African Post Office SOC Ltd

South African Airways SOC Ltd

South African Express Airways SOC Ltd

Trans-Caledon Tunnel Authority

Transnet SOC Ltd

Any subsidiary or entity under the control of the above public entities".

Amendment of Schedule 3 to Act 1 of 1999

80. Schedule 3 to the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution in Part A for the words after “William Humphreys Art Gallery” of the following words:

“Any subsidiary or entity under the **[ownership]** control of the above public entities”;

- (b) by the substitution in Part B for the words after “Umgeni-uThukela Water” of the following words:

“Any subsidiary or entity under the **[ownership]** control of the above public entities”;

- (c) by the substitution in Part C for the words after “Western Cape Tourism, Trade and Investment Promotion Agency” of the following words:

“Any subsidiary or entity under the **[ownership]** control of the above public entities”; and

- (d) by the substitution in Part D for the words after “Saldanha Bay IDZ Licencing Company SOC Ltd” of the following words:

“Any subsidiary or entity under the **[ownership]** control of the above public entities”.

Amendment of Arrangement of sections of Act 1 of 1999, as amended by section 48 of Act 29 of 1999

81. The arrangement of sections of the Public Finance Management Act, 1999, is hereby amended—

- (a) by the substitution for the heading of Chapter 2 of the following heading:

“CHAPTER 2

NATIONAL TREASURY, OFFICE OF ACCOUNTANT-GENERAL AND
NATIONAL REVENUE FUND

Part 1

National Treasury and Office of Accountant-General”;

- (b) by the insertion after item 6 of the following items:

“6A Stopping of allocations to provinces

6B Stopping of funds to institutions

OFFICE OF ACCOUNTANT-GENERAL

6C Establishment of Office of Accountant-General

6D Functions of Office of Accountant-General”;

- (c) by the insertion after item 32 of the following item:

“32A Fiscal sustainability and fiscal planning”;

- (d) by the insertion after item 38 of the following item:

“38A Fiduciary responsibilities of accounting officers”;

- (e) by the insertion after item 39 of the following item:

“39A Accounting officers’ responsibilities relating to budgetary control for constitutional institutions and trading entities”;

- (f) by the substitution for item 43 of the following item:

“43 Virement [**between main divisions**] of unspent funds within votes”;

- (g) by the insertion after item 43 of the following item:

“43A Transfers”;

- (h) by the insertion after item 45 of the following item:

“45A Chief financial officer”;

- (i) by the substitution for the heading to Part 2 of Chapter 6 of the following heading:

“Part 2

Duties and responsibilities of accounting officers, boards or controlling bodies of public entities".

- (j) by the substitution for items 49, 50 and 51 of the following item:
 - "49 Accounting **[authorities]** officers and boards or controlling bodies for public entities
 - 50 Fiduciary duties of **[accounting authorities]** boards or controlling bodies of public entities
 - 51 General responsibilities of accounting **[authorities]** officer of public entity";
- (k) by the substitution for item 54 of the following item:
 - "54 Information to be submitted by accounting **[authorities]** officers";
- (l) by the substitution for item 56 of the following item:
 - "56 Assignment of powers and duties by accounting **[authorities]** officers";
- (m) by the insertion after item 56 of the following item:
 - "56A Assignment of powers and duties by board or controlling body";
- (n) by the insertion after item 57 of the following items:
 - "57A Chief financial officer
 - Part 3A
 - Financially distressed public entities
 - 57B Intervention by Minister";
- (o) by the insertion after item 65 of the following items:
 - "CHAPTER 7A
 - FISCAL MEASURES FOR CONDITIONS OF SERVICE
 - 65A Concurrence of Minister for determinations of conditions of service for officials of institutions
 - 65B Concurrence of Minister for determinations of remuneration for members of boards or controlling bodies of public entities";
- (p) by the substitution for item 76 of the following item:
 - "76 Regulations and instructions";
- (q) by the insertion after item 76 of the following item:
 - "76A Interpretation ruling by Minister";
- (r) by the substitution for item 77 of the following item:
 - "77 Governance structures";

- (s) by the substitution for item 78 of the following item:

“78 Publishing of draft **[treasury]** regulations for public comment”;
- (t) by the substitution for item 83 of the following item:

“83 Financial misconduct by accounting **[authorities]** officers and officials of public entities”;
- (u) by the insertion after item 83 of the following item:

“83A Financial misconduct by executive authority”;
- (v) by the insertion after item 84 of the following items:

“84A Establishment of Financial Misconduct Investigation Committee

84B Composition of Financial Misconduct Investigation Committee

84C Power to obtain information for investigation; and
- (w) by the insertion after item 84 of the following items:

“85A Compliance orders”.

Amendment of section 14 of Act 25 of 2004

82. Section 14 of the Public Audit Act, 2004, is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

- “(b) in the absence of such legislation by the **[Auditor-General]** Minister responsible for finance.”.

Amendment of section 1 of Act 9 of 2009, as amended by section 1 of Act 13 of 2018

83. Section 1 of the Money Bills and Related Matters Act, 2009, is hereby amended by the insertion after the definition of “fiscal framework” of the following definitions:

“‘fiscal plan’ has the same meaning as defined in the Public Finance Management Act;

‘fiscal sustainability’ has the same meaning as defined in the Public Finance Management Act.”.

Amendment of section 4 of Act 9 of 2009, as amended by section 3 of Act 13 of 2018

84. Section 4 of the Money Bills and Related Matters Act, 2009, is hereby amended—

- (a) by the deletion of the word “and” at the end of the paragraph (c) for subsection (2); and
- (b) by the insertion after paragraph (c) for subsection (2) of the following paragraph:

“(cA) the performance of the Minister of Finance against the fiscal plan, published budget reviews and medium-term budget policy statements; and”.

Amendment of section 5 of Act 9 of 2009, as amended by section 3 of Act 13 of 2018

85. Section 5 of the Money Bills and Related Matters Act, 2009, is hereby amended—

- (a) by the deletion of the word “and” at the end of the paragraph (e) for subsection (1); and
- (b) by the insertion after paragraph (e) of subsection (1) of the following paragraph:

“(eA) the expenditure report relating to such department published by the National Treasury in terms of section 32 of the Public Finance Management Act; and”.

Amendment of section 6 of Act 9 of 2009, as amended by section 5 of Act 13 of 2018

86. Section 6 of the Money Bills and Related Matters Act, 2009, is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
 - “(b) an explanation of the macroeconomic and fiscal policy position, the macroeconomic projections and the assumptions underpinning the fiscal framework to achieve debt sustainability within the current Medium Term Expenditure Framework and the targets outlined in the fiscal plan;” and
- (b) by the insertion after paragraph (b) of subsection (2) of the following paragraph:

“(bA) a report on whether the fiscal framework remains consistent with fiscal sustainability and classify any deviation from the fiscal sustainability as a shock, forecast error, policy change, fiscal risk realisation or implementation slippage, and set out the corrective measures proposed;”.

Insertion of section 6A of Act 9 of 2009

87. The following section is hereby inserted in the Money Bills and Related Matters Act, 2009, after section 6:

“Consideration of fiscal plan

6A. (1) After the Minister tables the fiscal plan in terms of section 32A of the Public Finance Management Act, the National Assembly and the National Council of Provinces must refer the fiscal plan to their respective committees on finance.

(2) The committees on finance must—

- (a) conduct joint public hearings on the fiscal plan;
- (b) consider the report contemplated in section 3(2E) of the Financial and Fiscal Commission Act, 1997, submitted by the Financial and Fiscal Commission; and

(c) submit reports to the respective Houses.”.

Amendment of section 7 of Act 9 of 2009, as amended by section of Act 13 of 2018

88. Section 7 of the Money Bills and Related Matters Act, 2009, is hereby amended by the addition of the following subsection:

“(5) A proposed fiscal framework referred to in subsection (2)(a) must include a statement setting out how the fiscal framework is consistent with fiscal sustainability and the fiscal plan or, where it is not, the reasons and the corrective measures proposed.”.

Amendment of section 8 of Act 9 of 2009, as amended by section 7 of Act 13 of 2018

89. Section 8 of the Money Bills and Related Matters Act, 2009, is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:

“(3) The committees must report to the National Assembly or the National Council of Provinces, as the case requires, within 16 days after the tabling of the national budget, on whether the fiscal framework is consistent with fiscal sustainability and with the fiscal plan, and state how the committees have taken into account the report of the Financial and Fiscal Commission.”;

(b) by the substitution for paragraph (b) of subsection (5) of the following paragraph:

“(b) assess whether that debt levels and debt servicing costs are consistent with fiscal sustainability and the fiscal plan;”;

(c) by the deletion of the word “and” at the end of the paragraph (f) of subsection (5);

(d) by the substitution for the full stop at the end of paragraph (g) of subsection (5) of the expression “; and”;

(e) by the insertion after paragraph (g) for subsection (5) of the following paragraph:

“(h) evaluate whether the fiscal framework is consistent with fiscal sustainability and the fiscal plan and, where it is not, the reasons given by the Minister in terms of section 7(5), the corrective measures and the time frame proposed.”; and

(f) by the substitution for subsection (8) of the following subsection:

“(8) (a) If there is a material difference in the resolutions passed by the National Council of Provinces and the National Assembly, the National Assembly must reconsider its resolution, taking into account the differences with the resolution passed by the National Council of Provinces, and pass its resolution again with or without amendments.

(b) In reconsidering its resolution, the National Assembly may require the Minister to set out the measures and time frame proposed to ensure

that the fiscal framework is consistent with fiscal sustainability and the fiscal plan.".

Amendment of Arrangement of sections of Act 9 of 2009,

90. The arrangement of sections of the Money Bills and Related Matters Act, 2009, is hereby amended by the insertion after item 6 of the following item:

"6A Consideration of fiscal plan".

Short title and commencement

91. This Act is called the Public Finance Management and Related Laws Amendment Act, 2026, and takes effect on a date determined by the President by proclamation in the *Gazette*.