



MINISTRY OF FINANCE  
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001 | 40 Church Square, Pretoria, 0002 | Tel: +27 12 315 5111



@TreasuryRSA



National Treasury RSA



National Treasury of South Africa



@treasuryrsa

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## MEDIA STATEMENT

### THE MINISTER OF FINANCE HAS NOTED AND RESPECTS THE JUDGEMENT OF THE CONSTITUTIONAL COURT

The Minister of Finance has noted and respects the judgement of the Constitutional Court in the matter of *the Premier of the Western Cape Government // Speaker of the National Assembly, Chairperson of the National Council of Provinces & Minister of Finance, Case No: CCT103/25/2024* and *the City of Cape Town // The Speaker of the National Assembly and Others, Case No: CCT: 144/25* that declared the Public Procurement Act, 2024 was adopted in a manner inconsistent with the Constitution and is consequently invalid. The Minister respects the judgement of the highest Court in the Republic.

Public procurement remains a key enabler to economic growth and development. However, this cannot be realised in a weak public procurement ecosystem that is not governed by a legislative framework geared to achieve that which section 217 of the Constitution of the Republic of South Africa, 1996 requires, which is, a procurement system which is fair, equitable, transparent, competitive and cost-effective and provides for the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination. Public procurement in its current state will not realise these constitutional principles as it is fraught with challenges that include corrupt activities, fraud, financial loss, poor planning, inferior deliverables, weak institutional capacity, irregular expenditure and failure to sufficiently stimulate local industries. This is evident from the various reports, media exposés and Commissions of Inquiry that have taken place or are underway.

I have noted that the Constitutional Court stated in paragraph [119] that *“The Court should avoid directing Parliament’s affairs unless the Constitution demands it. In my view, it is inappropriate for this Court, in the present circumstances, to direct the process that Parliament must follow to remedy the defects. Should the respondents wish to proceed with enacting Act or a similar Bill, they are, of course, free to do so, provided that they comply with a constitutionally compliant public participation process. The appropriate order, in my view, is simply to declare the Act invalid, without suspending the declaration or giving directions on how Parliament is to remedy the defects.”*



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Accordingly, after studying the implications of the judgement, the Minister of Finance will engage the Speaker of the National Assembly and the Chairperson of the National Council of Provinces on the way forward.

It remains my commitment, with the support of the National Treasury, to advance the requisite public procurement legislative reforms as guided by the Constitutional Court judgement.

*Issued by: Ministry of Finance*

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