



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

TO ALL

- : ACCOUNTING OFFICERS OF CONSTITUTIONAL INSTITUTIONS**
- : ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES LISTED IN SCHEDULES 3A AND 3C TO THE PFMA**
- : HEAD OFFICIALS OF PROVINCIAL TREASURIES**

NATIONAL TREASURY INSTRUCTION NO. 12 OF 2020/2021

RETENTION OF SURPLUSES BY CONSTITUTIONAL INSTITUTIONS AND PUBLIC ENTITIES LISTED IN SCHEDULES 3A AND 3C TO THE PUBLIC FINANCE MANAGEMENT ACT (PFMA), 1999 (ACT NO. 1 OF 1999)

1. PURPOSE

- 1.1 The purpose of this National Treasury Instruction is to repeal National Treasury Instruction No. 06 of 2017/2018 on the retention of cash surpluses; and
- 1.2 Introduce the revised National Treasury Instruction with provisions on the retention of cash surpluses that are to be followed by accounting officers of constitutional institutions and accounting authorities of public entities listed in Schedules 3A and 3C to the PFMA.

2. BACKGROUND

- 2.1 In terms of section 53(1) of the PFMA, the accounting authority for a public entity listed in 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, 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.
- 2.2 Section 53(3) of the PFMA, requires a public entity which must submit a budget in terms of section 53(1) of the PFMA, not to budget for a deficit and not to accumulate surpluses unless the prior written approval of the National Treasury has been obtained.

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3. ACCUMULATION OF SURPLUSES BY PUBLIC ENTITIES LISTED IN SCHEDULES 3A AND 3C TO THE PFMA

3.1 Public entities listed in Schedules 3A and 3C to the PFMA may not accumulate surpluses that were realised in the previous financial year without obtaining prior written approval of the relevant Treasury.

3.2 The surplus referred to in section 53(3) of the PFMA and in paragraph 3.1 above is a reference to a public entity's surplus as demonstrated in the enclosed **Annexure A** to this Treasury Instruction.

4. DECLARATION OF ACCUMULATED SURPLUSES BY PUBLIC ENTITIES LISTED IN SCHEDULES 3A AND 3C TO THE PFMA

4.1 Accounting authorities of public entities listed in Schedules 3A and 3C to the PFMA must annually declare all surpluses or deficits to the relevant Treasury from the period 1 August to 30 September of each year, using their audited annual financial statements as the basis for calculation of surpluses or deficits.

4.2 Accounting authorities of 3A and 3C public entities should not utilise surplus funds realised from a closed financial year, prior to obtaining written approval from the relevant Treasury to retain such surpluses. This includes unspent surplus funds that were approved for retention in a previous financial year.

4.3 Public entities listed in Schedules 3A and 3C to the PFMA that have not realised any surpluses or deficits must submit a nil return to the relevant Treasury from the period 1 August to 30 September of each year.

4.4 Public entities listed in Schedules 3A and 3C whose founding legislation preclude such entities from surrendering surpluses to the relevant Revenue Fund must take note that section 3(3) of the PFMA provides that; in the event of any inconsistency between the PFMA and other legislation, the PFMA prevails.

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5. SUBMISSIONS OF REQUESTS TO THE RELEVANT TREASURY TO ACCUMULATE SURPLUSES IN TERMS OF SECTION 53(3) OF THE PFMA

- 5.1 Accounting authorities of public entities listed in Schedules 3A and 3C to the PFMA must submit formal requests to the relevant Treasury to retain surpluses that have been realised in a preceding financial year¹.
- 5.2 The submission referred to in paragraph 5.1 above must be presented to the relevant Treasury from the period 1 August to 30 September each year as indicated in the enclosed **Annexure B**.
- 5.3 Requests submitted to the relevant Treasury to retain surpluses must be accompanied by the following:
- (a) the calculation that was used to arrive at the amount of the surplus as contained in the enclosed **Annexure A**;
 - (b) a copy of the audited annual financial statements including the notes to these audited financial statements;
 - (c) detail on how previously approved surpluses were utilised by the public entity;
 - (d) motivation detailing how the surplus arose and why the surplus should be considered for approval, (i.e.: provide specific details such as, working capital requirements); and
 - (e) detailed information on contingent liabilities if any, (with an indication of when these may be realised).
- 5.4 Accounting authorities must, through their designated departments, submit requests to the relevant Treasury to retain surpluses in terms of section 53(3) of the PFMA.
- 5.5 In terms Treasury Regulations 31.3.3, unless exempted by the National Treasury, public entities that are listed in Schedules 3A or 3C of the PFMA must invest surplus funds with the Corporation for Public Deposits.
- 5.6 Guidance on the recognition and/or measurement of any related assets/liabilities is included in **Annexure C**.

¹ This refers to the previous financial year

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6. SURRENDER OF SURPLUSES BY PUBLIC ENTITIES LISTED IN SCHEDULES 3A AND 3C TO THE PFMA

6.1 Public entities listed in Schedules 3A and 3C to the PFMA must, through their designated departments, surrender for re-depositing into the relevant Revenue Fund, all surpluses that were realised in a particular financial year –

- (a) which were not approved for retention by the relevant Treasury in terms of section 53(3) of the PFMA; or
- (b) where no application was made to the relevant Treasury to accumulate the surplus in terms of section 53(3) of the PFMA.

6.2 The surpluses referred to in paragraph 6.1 above, must be surrendered for re-depositing into the relevant Revenue Fund by no later than 30 November of each year as indicated in the enclosed **Annexure B**.

6.3 Failure by a public entity to submit a surplus retention request to the relevant Treasury by 30 September each year will result in the entity having to surrender the surplus to the relevant Revenue Fund by 30 November (as per paragraph 6.1(b) above), unless there has been a delay in the finalisation of the audit.

6.4 In the case of a delay in the finalisation of the audit –

6.4.1 a letter must be sent to the relevant Treasury by the 30th September explaining the delay.

6.4.2 a surplus retention request must be submitted to the relevant Treasury within 30 days of finalising the audit.

7. DECLARATION OF SURPLUSES BY CONSTITUTIONAL INSTITUTIONS

7.1 Accounting officers of constitutional institutions must follow the same process for declaring and surrendering surpluses realised, in the same manner as Schedules 3A and 3C public entities, according to the formula stipulated in **Annexure A** and the procedures and conditions set out in sections 4, 5 and 6 of this Instruction.

7.2 The surpluses surrendered must be re-deposited into the National Revenue Fund by 30 November of each year as indicated in the attached **Annexure B**.

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8. TRANSITIONAL ARRANGEMENTS FOR SURPLUSES REALISED IN 2019/2020 FINANCIAL YEAR

- 8.1 Accounting authorities of public entities listed in Schedules 3A and 3C to the PFMA must declare all surpluses or deficits realized to the relevant Treasury from the period 1 October 2020 to 30 October 2020 for surpluses realised in the 2019/20 financial year, using their audited annual financial statements as the basis for calculation of surpluses or deficits.
- 8.2 Paragraphs 4.3, 5.2, 6.2 and 6.4 above - the submission date as it relates to the application for the 2019/20 financial year is from the period 1 October 2020 to 30 October 2020.
- 8.3 Failure by a public entity to submit a surplus retention request to the relevant Treasury by 30 October 2020 will result in the entity having to surrender the surplus to the relevant Revenue Fund by 30 December (as per paragraph 6.1(b) above), unless there has been a delay in the finalisation of the audit.
- 8.4 The surpluses surrendered must be re-deposited into the National Revenue Fund by 30 December 2020 as it relates to the attached Annexure B.

9. APPLICABILITY

This Treasury National Instruction applies to all constitutional institutions and public entities listed in Schedules 3A and 3C to the PFMA.

10. REPEAL OF NATIONAL TREASURY INSTRUCTION NO. 06 OF 2017/2018

This National Treasury Instruction repeals the National Treasury Instruction No. 06 of 2017/18 issued on the Retention of Cash Surpluses by Constitutional Institutions and Public Entities listed in Schedules 3A and 3C of the PFMA.

11. EFFECTIVE DATE

This Treasury Instruction takes effect from date of signature for surpluses realised in the 2019/2020 financial year and for all surpluses realised thereafter.

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12. DISSEMINATION OF INFORMATION CONTAINED IN THIS TREASURY INSTRUCTION

12.1 Accounting officers of national departments are requested to bring the contents of this Treasury Instruction to the attention of:

- (a) accounting officers of constitutional institutions that receive transfer payments from the votes of their respective departments; and
- (b) accounting authorities of public entities listed in Schedule 3A to the PFMA which report to the executive authority of their respective departments.

12.2 Head officials of provincial treasuries are requested to bring the contents of this Treasury Instruction to the attention of provincial departments and public entities listed in Schedule 3C to the PFMA.

13. AUTHORITY FOR THIS TREASURY INSTRUCTION

This National Treasury Instruction is issued in terms of section 76(4)(g) of the PFMA.

14. CONTACT INFORMATION

14.1 Enquiries related to this National Treasury Instruction may be directed to relevant Budget Analysts in the Public Finance Division of the National Treasury. The details of responsible officials can be obtained from the Chief Financial Officers of designated departments.

14.2 Written requests for the declaration and retention of surpluses by constitutional institutions and public entities listed in Schedule 3A to the PFMA must be forwarded to:

**The Director-General
National Treasury
Private Bag X115
PRETORIA
0001**

For attention: The Deputy Director-General: Public Finance

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- 14.3 Written requests for the retention of surpluses by public entities listed in Schedule 3C to the PFMA must be forwarded to the respective provincial treasuries.



KAREN MAREE
ACTING ACCOUNTANT-GENERAL
DATE: 2 September 2020

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ANNEXURE A: FORMULA FOR CALCULATION OF A SURPLUSES

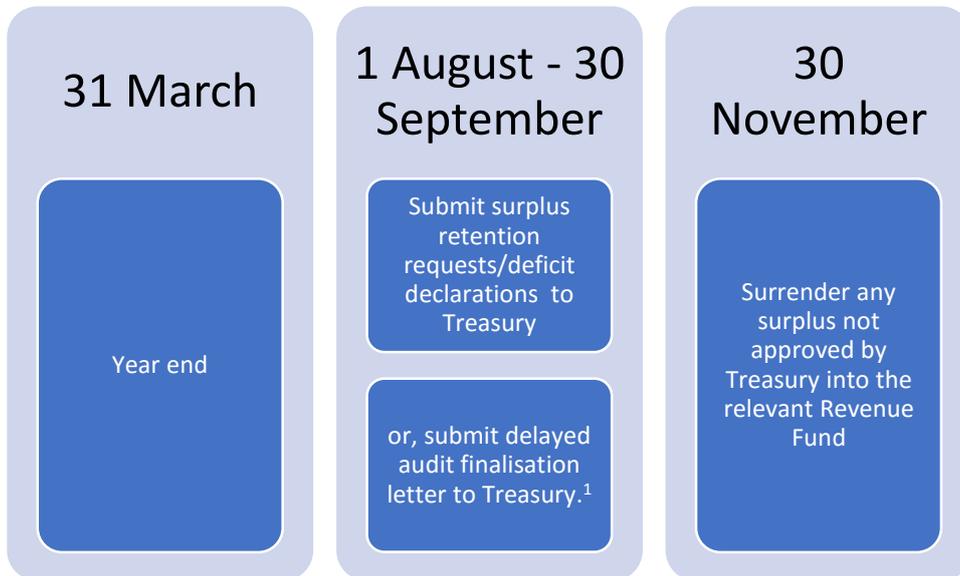
*Calculation in terms of Paragraph 3.2 of the National Treasury
Instruction No 12 of 2020/2021*

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Cash and cash equivalents at the end of the year	XXX
<u>Add:</u> Receivables	xxx
<u>Less:</u> Current liabilities	(xxx)
Surplus	XXX

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ANNEXURE B: PROCESS TO BE FOLLOWED BY ACCOUNTING AUTHORITIES WHEN DECLARING AND SURRENDERING SURPLUSES



1. A surplus retention request/deficit declaration must be submitted within 30 days of finalisation of the audit.

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ANNEXURE C: ACCOUNTING FOR REVENUE AND LIABILITIES IN RELATION TO THE DECLARATION AND SURRENDER OF SURPLUSES²

The purpose of this Annexure is to provide guidance on the accounting for liabilities for the surrender of surpluses. In order to do so, this Annexure also discusses the initial recognition and measurement of revenue annually appropriated and received by public entities. This Annexure focuses on the requirements of GRAP 23 on *Revenue from Non-exchange Transactions* and any associated legislative requirements (including as introduced in this National Treasury Instruction).

Initial recognition of an receivable for funds appropriated to a public entity

GRAP 23 on *Revenue from Non-exchange Transactions* requires an entity to recognise a transfer as an asset when it meets the definition of and criteria for recognition as an asset. Simply put, and in relation to amounts allocated to a public entity in an annual Appropriation Act³, an entity recognises an asset when it has an enforceable claim against the designated department for its annual appropriation.

The annual Appropriation Act is expected to be passed prior to the start of a financial year, any funds included therein may not be withdrawn from the National or a Provincial Revenue Fund prior to the commencement of the financial year (or 1 April)⁴. Therefore, even though the Act may have been passed prior to the commencement of the financial year, a public entity has an enforceable claim on 1 April each year.

For example, National Public Entity receives its 2020/2021 allocation letter from its designated department on 31 January 2020. The 2020/2021 Appropriation Act is passed into law on 13 March 2020. The transfer in the allocation letter and the Act are the same. The National Public Entity recognises a receivable for the 20120/2021 allocation on 1 April 2020.

If the Appropriation Bill is not passed by Parliament or the Provincial Legislature prior to the commencement of the financial year to which it relates, the enforceable claim recognised by the public entity will be limited to the amount appropriated in the previous annual budget⁵.

For example, National Public Entity receives its 2020/2021 allocation letter from its designated department on 31 January 2020 for an amount of R15million. The 2020/2021 Appropriation Act is passed into law on 13 May 2020. The transfer in the allocation letter and the Act are the same. The amount allocated to National Public Entity in 2019/2020 is R13,5million. The National Public Entity recognises a receivable for R13,5million on 1 April 2020 and recognises a further R1.5million on 13 May 2020.

² This annexure is illustrative only and does not take precedence over the actual Standards of GRAP.

³ Or Appropriation Bill, if the Act has not been passed by the National Assembly or provincial legislature before the start of the financial year.

⁴ As set out in the Appropriation Act and Division of Revenue Act

⁵ Section 29 of the PFMA.

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With regards to any adjusted appropriations made in-year, a public entity will recognise any additional allocation or a reduction in its allocation when the adjustments budget takes effect.

Flow of funds to the public entity

In order to effectively manage the cash flow of public finances, each reporting entity submits a drawings schedule to the National or Provincial Revenue fund. Funds are periodically disbursed from the relevant revenue fund on the bases of these cash flow requirements. This process sets out the timing of the cash flows and not the timing of the enforceable claim. Instead, it provides a basis for the derecognition of the receivable.

For example, National Public Entity recognises R12,5million as a receivable on 1 April 2020. This amount is received in 4 equal tranches of R3,125million each. On 1 July 2020 National Public Entity derecognises R3,125million when it receives it's first cash transfer. This process is repeated until all the promised cash has been received.

Conditions and associated liabilities

When the entity recognises an asset (or receivable), it also recognises revenue to the extent that a liability is not recognised. A liability is recognised when there are conditions associated with the use of the asset. According to GRAP 23, "*conditions require that the entity either consume the future economic benefits or service potential of the asset as specified or return future economic benefits or service potential to the transferor in the event that the conditions are breached*"⁶. An important aspect of a condition is that the recipient must return the funds if the conditions are breached (i.e. there must be a return obligation). Conditions associated with allocations are usually specified in the Appropriation Act or allocation letters. Conditions may also be specifically stipulated in donor arrangements.

For example, National Public Entity received a research grant for the development of a vaccine. In terms of the allocation, the entity must repay any unspent funds at the end of the financial year. The total amount allocated for 2020/2021 is R20million of which R2million was unspent by 31 March 2021. National Public Entity recognises a receivable and liability of R20million at the commencement of the financial year. As the entity utilises the funds, it recognises the associated revenue. At the end of the year R2million remains as a liability.

Earmarked or specifically appropriated funds are not conditions if there is no specific return obligation. Furthermore, an allocation that can be stopped or withheld due to non-performance of the recipient is also not a condition that will result in the recognition of a corresponding liability. In such instances, however, the entity should consider whether it still has a right to future cash flows and if not derecognise the receivable (or part thereof).

⁶ GRAP 23 paragraph .16

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For example, a portion of National Public Entity's allocation was earmarked for the upgrading of its network infrastructure. The total amount allocated for 2020/2021 was R2million of which R1,1million had been spent by 30 September 2020. Due to poor progress and reporting thereon to its designated department, a decision was taken to stop the transfer of further funds for this project to National Public Entity. The receivable of R900k at 30 September would accordingly need to be written-off (or derecognised) reducing the amount of non-exchange revenue recognised in the statement of financial performance.

Surrender of surplus funds

Legislation requires schedule 3A and 3C public entities to surrender any surpluses to the relevant revenue fund (via its designated department). Surpluses are generated when such public entities for example spend less than originally anticipated or where they generate revenue from sources other than appropriations. The requirement to surrender any surpluses is an event unrelated to the initial allocation of funds and will accordingly not be a condition as defined in GRAP 23. These public entities will identify the surpluses as at the reporting date as defined in this National Treasury Instruction and will either recognise a provision or a contingent liability (as defined in GRAP 19 on *Provisions, Contingent Liabilities and Contingent Assets*) in consideration of past practices.

Where an entity recognises a provision, it does so by debiting expenditure in the statement of financial performance. The same applies when in a subsequent reporting period an entity must surrender funds which had been disclosed as a contingent liability in the previous financial year.

For example, a portion of National Public Entity's allocation was earmarked for the upgrading of its network infrastructure. The total amount allocated for 2020/2021 was R2million of which R1,8million had been spent by 31 March 2020. Legislation requires National Public Entity to surrender any unspent funds. National Public Entity accordingly recognises a liability (and an expense) of R200k at the reporting date. National Public Entity subsequently submits an application to the National Treasury for the retention of the R200k so as to pay for the completion of the project in the subsequent financial year.

Where the public entity recognised a liability and the relevant Treasury subsequently granted permission for the retention of the surplus funds, the public entity will account for the subsequent change in the liability as prescribed in GRAP 19.