

PUBLIC FINANCE MANAGEMENT ACT 1 OF 1999

(English text signed by the President)

[Assented To: 2 March 1999]

[Commencement Date: 1 April 2000 – unless otherwise indicated]

as amended by:

Public Finance Management Amendment Act 29 of 1999

Local Government: Municipal Systems Act 32 of 2000

Government Notice 402 / GG 22047 / 20010216

Government Notice 1397 / GG 22331 / 20010601

Government Notice 504 / GG 22337 / 20010608

Government Notice 1863 / GG 22577 / 20010824

Government Notice 2302 / GG 22860 / 20011130

Government Notice 683 / GG 23407 / 20020517

Government Notice 1283 / GG 23619 / 20020719

Government Notice 1315 / GG 23661 / 20020802

Government Notice 1396 / GG 24042 / 20021115

General Notice 1261 / GG 24731 / 20030417

Judicial Officers (Amendment of Conditions of Service) Act 28 of 2003

General Notice 3366 / GG 25778 / 20031205

General Notice 1139 / GG 26477 / 20040625

Public Audit Act 25 of 2004

General Notice 765 / GG 27599 / 20050527

ACT

To regulate financial management in the national government and provincial governments; to ensure that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively; to provide for the responsibilities of persons entrusted with financial management in those governments; and to provide for matters connected therewith.

[Long title substituted by s. 47 of Act 29/99]

ARRANGEMENT OF SECTIONS

CHAPTER 1

INTERPRETATION, OBJECT, APPLICATION AND AMENDMENT OF THIS ACT

1. Definitions
2. Object of this Act
3. Institutions to which this Act applies
4. Amendments to this Act

CHAPTER 2

NATIONAL TREASURY AND NATIONAL REVENUE FUND

Part 1: National Treasury

5. Establishment
6. Functions and powers
7. Banking, cash management and investment framework
8. Annual consolidated financial statements
9. Financial statistics and aggregations
10. Delegations by National Treasury

Part 2: National Revenue Fund

11. Control of National Revenue Fund
12. Deposits and withdrawals by South African Revenue Services in Revenue Funds
13. Deposits into National Revenue Fund
14. Withdrawal of exclusions
15. Withdrawals and investments from National Revenue Fund
16. Use of funds in emergency situations

CHAPTER 3

PROVINCIAL TREASURIES AND PROVINCIAL REVENUE FUNDS

Part 1: Provincial Treasuries

17. Establishment
18. Functions and powers
19. Annual consolidated financial statements
20. Delegations by provincial treasuries

Part 2: Provincial Revenue Funds

21. Control of Provincial Revenue Fund
22. Deposits by provincial departments into Provincial Revenue Fund
23. Withdrawal of exclusions from Provincial Revenue Funds
24. Withdrawals from Provincial Revenue Funds
25. Use of funds in emergency situations

CHAPTER 4

NATIONAL AND PROVINCIAL BUDGETS

26. Annual appropriations
27. National annual budgets
28. Multi-year budget projections
29. Expenditure before annual budget is passed
30. National adjustments budgets
31. Provincial adjustments budgets
32. Publishing of reports on state of budget
33. Withholding of appropriated funds
34. Unauthorised expenditure
35. Unfunded mandates

CHAPTER 5
DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS

Part 1: Appointment of Accounting Officers

- 36. Accounting officers
- 37. Acting accounting officers

Part 2: Responsibilities of Accounting Officers

- 38. General responsibilities of accounting officers
- 39. Accounting officers' responsibilities relating to budgetary control
- 40. Accounting officers' reporting responsibilities
- 41. Information to be submitted by accounting officers
- 42. Accounting officers' responsibilities when assets and liabilities are transferred

- 43. Virement between main divisions within votes

Part 3: Other Officials of Departments and Constitutional Institutions

- 44. Assignment of powers and duties by accounting officers
- 45. Responsibilities of other officials

CHAPTER 6
PUBLIC ENTITIES

Part 1: Application of this Chapter

- 46. Application
- 47. Unlisted public entities
- 48. Classification of public entities

Part 2: Accounting Authorities for Public Entities

- 49. Accounting authorities
- 50. Fiduciary duties of accounting authorities
- 51. General responsibilities of accounting authorities
- 52. Annual budget and corporate plan by Schedule 2 public entities and government business enterprises
- 53. Annual budgets by non-business Schedule 3 public entities
- 54. Information to be submitted by accounting authorities
- 55. Annual report and financial statements

Part 3: Other Officials of Public Entities

- 56. Assignment of powers and duties by accounting authorities
- 57. Responsibilities of other officials

Part 4: External Auditors

- 58.
- 59.
- 60.
- 61.
- 62.

CHAPTER 7 **EXECUTIVE AUTHORITIES**

- 63. Financial responsibilities of executive authorities
- 64. Executive directives having financial implications
- 65. Tabling in legislatures

CHAPTER 8 **LOANS, GUARANTEES AND OTHER COMMITMENTS**

Part 1: General Principles

- 66. Restrictions on borrowing, guarantees and other commitments
- 67. No provincial foreign commitments
- 68. Consequences of unauthorised transactions
- 69. Regulations on borrowing by public entities
- 70. Guarantees, indemnities and securities by Cabinet members

Part 2: Loans by National Government

- 71. Purposes for which Minister may borrow money
- 72. Signing of loan agreements
- 73. Interest and repayments of loans to be direct charges
- 74. Repayment, conversion and consolidation of loans
- 75. Obligations from lien over securities

CHAPTER 9 **GENERAL TREASURY MATTERS**

- 76. Treasury regulations and instructions
- 77. Audit committees
- 78. Publishing of draft treasury regulations for public comment
- 79. Departures from treasury regulations, instructions or conditions
- 80. Determination of interest rates for debt owing to state

CHAPTER 10 **FINANCIAL MISCONDUCT**

Part 1: Disciplinary Proceedings

- 81. Financial misconduct by officials in departments and constitutional institutions

- [82. Financial misconduct by treasury officials](#)
- [83. Financial misconduct by accounting authorities and officials of public entities](#)

- [84. Applicable legal regime for disciplinary proceedings](#)
- [85. Regulations on financial misconduct procedures](#)

Part 2: Criminal Proceedings

- [86. Offences and penalties](#)

CHAPTER 11 **ACCOUNTING STANDARDS BOARD**

- [87. Establishment](#)
- [88. Composition](#)
- [89. Functions of Board](#)
- [90. Powers of Board](#)
- [91. Regulations on accounting standards of Board](#)

CHAPTER 12 **MISCELLANEOUS**

- [92. Exemptions](#)
- [93. Transitional provisions](#)
- [94. Repeal of legislation](#)
- [95. Short title and commencement](#)

- [Schedule 1 - Constitutional institutions](#)
- [Schedule 2 - Major public entities](#)
- [Schedule 3 - Other public entities](#)
- [Schedule 4 - Exclusions from revenue funds](#)
- [Schedule 5 - Direct charges against national revenue fund](#)
- [Schedule 6 - Repeal of legislation](#)

[Arrangement of sections amended by s. 48 of Act 29/99]

CHAPTER 1

INTERPRETATION, OBJECT, APPLICATION AND AMENDMENT OF THIS ACT

1. Definitions

In this Act, unless the context otherwise indicates -

“**accounting officer**” means a person mentioned in [section 36](#);

“**accounting authority**” means a body or person mentioned in [section 49](#);

“**Accounting Standards Board**” means the board established in terms of [section 87](#);

“annual Division of Revenue Act” means the Act of Parliament which must annually be enacted in terms of [section 214](#) (1) of the Constitution;

“constitutional institution” means an institution listed in [Schedule 1](#);

“department” means a national or provincial department;
[Definition of “department” substituted by s. 1 of Act 29/99]

“executive authority” -

- (a) in relation to a national department, means the Cabinet member who is accountable to Parliament for that department;
- (b) in relation to a provincial department, means the member of the Executive Council of a province who is accountable to the provincial legislature for that department;
- (c) in relation to a national public entity, means the Cabinet member who is accountable to Parliament for that public entity or in whose portfolio it falls; and
- (d) in relation to a provincial public entity, means the member of the provincial Executive Council who is accountable to the provincial legislature for that public entity or in whose portfolio it falls;
[Definition of “executive authority” substituted by s. 1 of Act 29/99]

“financial year” -

- (a) means a year ending 31 March; or
- (b) in relation to a public entity that existed when this Act took effect and that has a different financial year in terms of other legislation, means that financial year, provided the National Treasury has approved that other financial year;
[Para. (b) amended by s. 1 of Act 29/99]

“financial statements” means statements consisting of at least -

- (a) a balance sheet;
- (b) an income statement;
- (c) a cash-flow statement;
- (d) any other statements that may be prescribed; and
- (e) any notes to these statements;

“fruitless and wasteful expenditure” means expenditure which was made in vain and would have been avoided had reasonable care been exercised;

“generally recognised accounting practice” means an accounting practice complying in material respects with standards issued by the Accounting Standards Board;

“irregular expenditure” means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including -

- (a) this Act; or
- (b) the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or
- (c) any provincial legislation providing for procurement procedures in that provincial government;
[Definition of “irregular expenditure” amended by s. 1 of Act 29/99]

“main division within a vote” means one of the main segments into which a vote is divided and which -

- (a) specifies the total amount which is appropriated for the items under that segment; and
- (b) is approved by Parliament or a provincial legislature, as may be appropriate, as part of the vote;
[Definition of “main division within a vote” amended by s. 1 of Act 29/99]

“MEC for finance” means the member of an Executive Council of a province responsible for finance in the province;
[Definition of “MEC for finance” inserted by s. 1 of Act 29/99]

“Minister” means the Minister of Finance;

“national department” means -

- (a) a department listed in [Schedule 1](#) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), but excluding a provincial administration; or
- (b) an organisational component listed in [Schedule 3](#) of that Act;

“national government business enterprise” means an entity which -

- (a) is a juristic person under the ownership control of the national executive;
- (b) has been assigned financial and operational authority to carry on a business activity;
- (c) as its principal business, provides goods or services in accordance with ordinary business principles; and

- (d) is financed fully or substantially from sources other than -
 - (i) the National Revenue Fund; or
 - (ii) by way of a tax, levy or other statutory money;

“national public entity” means -

- (a) a national government business enterprise; or
- (b) a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is -
 - (i) established in terms of national legislation;
 - (ii) fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation; and
 - (iii) accountable to Parliament;

“National Treasury” means the National Treasury established by [section 5](#);

“overspending” -

- (a) in relation to a vote, means when expenditure under the vote exceeds the amount appropriated for that vote; or
- (b) in relation to a main division within a vote, means when expenditure under the main division exceeds the amount appropriated for that main division, subject to [section 43](#);

“ownership control”, in relation to an entity, means the ability to exercise 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 that entity’s board of directors or equivalent governing body;
- (b) to appoint or remove that entity’s chief executive officer;
- (c) to cast all, or the majority of, the votes at meetings of that 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;

“prescribe” means prescribe by regulation or instruction in terms of [section 76](#);

“provincial department” means -

- (a) a provincial administration listed in [Schedule 1](#) of the Public Service Act, 1994; or
- (b) a department within a provincial administration and listed in [Schedule 2](#) of that Act;
[Definition of “provincial department” inserted by s. 1 of Act 29/99]

“provincial government business enterprise” means an entity which -

- (a) is a juristic person under the ownership control of a provincial executive;
 - (b) has been assigned financial and operational authority to carry on a business activity;
 - (c) as its principal business, provides goods or services in accordance with ordinary business principles; and
 - (d) is financed fully or substantially from sources other than -
 - (i) a Provincial Revenue Fund; or
 - (ii) by way of a tax, levy or other statutory money;
- [Definition of “provincial government business enterprise” inserted by s. 1 of Act 29/99]

“provincial public entity” means -

- (a) a provincial government business enterprise; or
 - (b) a board, commission, company, corporation, fund or other entity (other than a provincial government business enterprise) which is -
 - (i) established in terms of legislation or a provincial constitution;
 - (ii) fully or substantially funded either from a Provincial Revenue Fund or by way of a tax, levy or other money imposed in terms of legislation; and
 - (iii) accountable to a provincial legislature;
- [Definition of “provincial public entity” inserted by s. 1 of Act 29/99]

“provincial treasury” means a treasury established in terms of [section 17](#);
[Definition of “provincial treasury” inserted by s. 1 of Act 29/99]

“public entity” means a national or provincial public entity;
[Definition of “public entity” substituted by s. 1 of Act 29/99]

“Revenue Fund” means -

- (a) the National Revenue Fund mentioned in [section 213](#) of the Constitution;
or
- (b) a Provincial Revenue Fund mentioned in [section 226](#) of the Constitution;
[Definition of “Revenue Fund” amended by s. 1 of Act 29/99]

“**this Act**” includes any regulations and instructions in terms of [section 69](#), [76](#), [85](#) or [91](#);

“**trading entity**” means an entity operating within the administration of a department for the provision or sale of goods or services, and established -

- (a) in the case of a national department, with the approval of the National Treasury; or
- (b) in the case of a provincial department, with the approval of the relevant provincial treasury acting within a prescribed framework;
[Definition of “trading entity” amended by s. 1 of Act 29/99]

“**treasury**” means the National Treasury or a provincial treasury, as may be appropriate in the circumstances;
[Definition of “treasury” substituted by s. 1 of Act 29/99]

“**unauthorised expenditure**” means -

- (a) overspending of a vote or a main division within a vote;
- (b) expenditure not in accordance with the purpose of a vote or, in the case of a main division, not in accordance with the purpose of the main division;

“**vote**” means one of the main segments into which an appropriation Act is divided and which -

- (a) specifies the total amount which is usually appropriated per department in an appropriation Act; and
- (b) is separately approved by Parliament or a provincial legislature, as may be appropriate, before it approves the relevant draft appropriation Act as such.

[Definition of “vote” amended by s. 1 of Act 29/99]

2. **Object of this Act**

The object of this Act is to secure transparency, accountability, and sound management of the revenue, expenditure, assets and liabilities of the institutions to which this Act applies.

3. **Institutions to which this Act applies**

- (1) This Act, to the extent indicated in the Act, applies to -

- (a) departments;
 - (b) public entities listed in [Schedule 2](#) or [3](#);
 - (c) constitutional institutions; and
 - (d) Parliament and the provincial legislatures, subject to subsection (2).
[Para. (d) substituted by s. 2 of Act 29/99]
- (2) To the extent that a provision of this Act applies to -
- (a) Parliament, any controlling and supervisory functions of the National Treasury in terms of that provision are performed by the Speaker of the National Assembly and the Chairperson of the National Council of Provinces, acting jointly; and
 - (b) a provincial legislature, any controlling and supervisory functions of the National Treasury and a provincial treasury in terms of that provision are performed by the Speaker of the provincial legislature.
[Para. (b) added by s. 2 of Act 29/99]
- (3) In the event of any inconsistency between this Act and any other legislation, this Act prevails.

4. Amendments to this Act

Draft legislation directly or indirectly amending this Act, or providing for the enactment of subordinate legislation that may conflict with this Act, may be introduced in Parliament -

- (a) by the Minister only; or
- (b) only after the Minister has been consulted on the contents of the draft legislation.

CHAPTER 2

NATIONAL TREASURY AND NATIONAL REVENUE FUND

Part 1: National Treasury

5. Establishment

- (1) A National Treasury is hereby established, consisting of -
- (a) the Minister, who is the head of the Treasury; and
 - (b) the national department or departments responsible for financial and fiscal matters.

- (2) The Minister, as the head of the National Treasury, takes the policy and other decisions of the Treasury, except those decisions taken as a result of a delegation or instruction in terms of [section 10](#).

6. Functions and powers

- (1) The National Treasury must -
- (a) promote the national government's fiscal policy framework and the co-ordination of macro-economic policy;
 - (b) co-ordinate intergovernmental financial and fiscal relations;
 - (c) manage the budget preparation process;
 - (d) exercise control over the implementation of the annual national budget, including any adjustments budgets;
 - (e) facilitate the implementation of the annual Division of Revenue Act;
 - (f) monitor the implementation of provincial budgets;
 - (g) promote and enforce transparency and effective management in respect of revenue, expenditure, assets and liabilities of departments, public entities and constitutional institutions; and
 - (h) perform the other functions assigned to the National Treasury in terms of this Act.
- (2) To the extent necessary to perform the functions mentioned in subsection (1), the National Treasury -
- (a) must prescribe uniform treasury norms and standards;
 - (b) must enforce this Act and any prescribed norms and standards, including any prescribed standards of generally recognised accounting practice and uniform classification systems, in national departments;
 - (c) must monitor and assess the implementation of this Act, including any prescribed norms and standards, in provincial departments, in public entities and in constitutional institutions;
[Para. (c) substituted by s. 3 of Act 29/99]
 - (d) may assist departments and constitutional institutions in building their capacity for efficient, effective and transparent financial management;
 - (e) may investigate any system of financial management and internal control in any department, public entity or constitutional institution;

- (f) must intervene by taking appropriate steps, which may include steps in terms of [section 100](#) of the Constitution or the withholding of funds in terms of [section 216](#) (2) of the Constitution, to address a serious or persistent material breach of this Act by a department, public entity or constitutional institution; and
 - (g) may do anything further that is necessary to fulfil its responsibilities effectively.
- (3) Subsections (1) (g) and (2) apply to public entities listed in [Schedule 2](#) only to the extent provided for in this Act.

7. Banking, cash management and investment framework

- (1) The National Treasury must prescribe a framework within which departments, public entities listed in [Schedule 3](#) and constitutional institutions must conduct their cash management.
- (2) A department authorised to open a bank account in terms of the prescribed framework, a public entity or a constitutional institution may open a bank account only -
 - (a) with a bank registered in South Africa and approved in writing by the National Treasury; and
 - (b) after any prescribed tendering procedures have been complied with.
- (3) A department, public entity listed in [Schedule 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.
- (4) The National Treasury may prescribe an investment policy for public entities, constitutional institutions and those departments authorised to open a bank or other account in terms of the prescribed framework.
- (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 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.

[Sub-s. (5) substituted by s. 4 of Act 29/99]

8. Annual consolidated financial statements

- (1) The National Treasury must -

- (a) prepare consolidated financial statements in accordance with generally recognised accounting practice for each financial year in respect of -
 - (i) national departments;
 - (ii) public entities under the ownership control of the national executive;
 - (iii) constitutional institutions;
 - (iv) the South African Reserve Bank;
 - (v) the Auditor-General; and
 - (vi) Parliament; and
 - (b) submit those statements for audit to the Auditor-General within three months after the end of that financial year.
- (2) The Auditor-General must audit the consolidated financial statements and submit an audit report on the statements to the National Treasury within three months of receipt of the statements.
- (3) The Minister must submit the consolidated financial statements and the audit report on those statements within one month of receiving the report from the Auditor-General, to Parliament for tabling in both Houses.
- (4) The consolidated financial statements must be made public when submitted to Parliament.
- (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 months after the end of the financial year to which those statements relate -
- (a) the Minister must submit to Parliament a written explanation setting out the reasons why they were not submitted; and
 - (b) the Auditor-General may issue a special report on the delay.
(Commencement date of s. 8: 1 April 2003)

9. Financial statistics and aggregations

The National Treasury may annually compile in accordance with international standards, and publish in the national Government *Gazette*, financial statistics and aggregations concerning all spheres of government.

10. Delegations by National Treasury

- (1) The Minister may -
- (a) in writing delegate any of the powers entrusted to the National Treasury in terms of this Act, to the head of a department forming part of the National Treasury, or instruct that head of department to perform any of the duties assigned to the National Treasury in terms of this Act; and
 - (b) in relation to a provincial department or provincial public entity, in writing delegate any of the powers entrusted to the National Treasury in terms of this Act to a provincial treasury, or request that treasury to perform any of the duties assigned to the National Treasury in terms of this Act, as the Minister and the relevant MEC for finance may agree.
[Para. (b) added by s. 5 of Act 29/99]
- (2) A delegation, instruction or request in terms of subsection (1) to the head of a department forming part of the National Treasury, or to a provincial treasury -
- (a) is subject to any limitations or conditions that the Minister may impose;
 - (b) may authorise that head, in the case of subsection (1) (a) -
 - (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;
 - (c) may authorise a provincial treasury, in the case of subsection (1) (b) -
 - (i) to sub-delegate, 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

[Para. (c) inserted by s. 5 of Act 29/99]

- (d) does not divest the Minister of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

[Sub-s. (2) amended by s. 5 of Act 29/99]

- (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.

[Sub-s. (3) substituted by s. 5 of Act 29/99]

Part 2: National Revenue Fund

11. Control of National Revenue Fund

- (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 that -
- (a) all money received by the national government must be paid into the Fund, except money reasonably excluded by this Act or another Act of Parliament; and
- (b) no money may be withdrawn from the Fund except -
- (i) in terms of an appropriation by an Act of Parliament; or
- (ii) as a direct charge against the Fund, subject to [section 15](#) (1) (a) (ii).
- (2) Draft legislation that provides for a withdrawal from the National Revenue Fund as a direct charge against the Fund, may be introduced in Parliament only after the Minister has been consulted and has consented to the direct charge.
- (3) Money that must be paid into the National Revenue Fund is paid into the Fund by depositing it into a bank account of the Fund in accordance with any requirements that may be prescribed.
- (4) The National Treasury must establish appropriate and effective cash management and banking arrangements for the National Revenue Fund.
- (5) The National Treasury must ensure that there is at all times sufficient money in the National Revenue Fund.

12. Deposits and withdrawals by South African Revenue Services in Revenue Funds

- (1) The South African Revenue Services must promptly 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.
- (2) The South African Revenue Services may, despite [section 15](#) (1), withdraw money from the National Revenue Fund -
 - (a) to refund any tax, levy or duty credits or any other charges in connection with taxes, levies or duties;
 - (b) to make other refunds approved by the National Treasury; or
 - (c) to transfer to a member of the South African Customs Union any money collected on its behalf.
- (3) The National Treasury must promptly transfer all taxes, levies, duties, fees and other moneys collected by the South African Revenue Services for a province and deposited into the National Revenue Fund, to that province's Provincial Revenue Fund.
- (4) Withdrawals in terms of subsection (2) or (3) are direct charges against the National Revenue Fund.

13. Deposits into National Revenue Fund

- (1) All money received by the national government must be paid into the National Revenue Fund, except money received by -
 - (a) Parliament;
 - (b) a national public entity;
 - (c) the South African Reserve Bank;
 - (d) the Auditor-General;
 - (e) the national government from donor agencies which in terms of legislation or the agreement with the donor, must be paid to the Reconstruction and Development Programme Fund;
 - (f) a national department -
 - (i) operating a trading entity, if the money is received in the ordinary course of operating the trading entity;

- (ii) in trust for a specific person or category of persons or for a specific purpose;
 - (iii) from another department to render an agency service for that department; or
 - (iv) if the money is of a kind described in [Schedule 4](#); or
- (g) a constitutional institution -
- (i) in trust for a specific person or category of persons or for a specific purpose; or
 - (ii) if the money is of a kind described in [Schedule 4](#).
- (2) The exclusion in subsection (1) (b) does not apply to a national public entity which is not listed in [Schedule 2](#) or [3](#) but which in terms of [section 47](#) is required to be listed.
(Commencement date of sub-s. (2): 1 April 2001)
- (3) Draft legislation that excludes money from payment into the National Revenue Fund may be introduced in Parliament only after the Minister has been consulted on the reasonableness of the exclusion and has consented to the exclusion.
- (4) Any legislation inconsistent with subsection (1) is of no force and effect to the extent of the inconsistency.
- (5) Money received by Parliament, a national public entity listed in [Schedule 2](#) or [3](#), the South African Reserve Bank or the Auditor-General must be paid into a bank account opened by the institution concerned.

14. Withdrawal of exclusions

- (1) The National Treasury may withdraw, from a date determined by it, any exclusion granted to a national department, a constitutional institution or a national public entity in terms of [section 13](#) (1), either with regard to all money or with regard to money of a specific kind received by that department, constitutional institution or public entity, if -
- (a) the exclusion is not reasonable within the context of [section 213](#) of the Constitution; or
 - (b) the National Treasury regards the withdrawal of the exclusion to be necessary for transparency or more effective and accountable financial management.
- (2) The exclusion in terms of [section 13](#) (1) of the following public entities may not be withdrawn:

- (a) A national government business enterprise which is a company and in which the state is not the sole shareholder; and
 - (b) the national public entities listed in [Schedule 2](#).
- (3) From the date on which the withdrawal of an exclusion in terms of subsection (1) takes effect until the end of the relevant financial year, the National Treasury may transfer money from the National Revenue Fund, as a direct charge against the Fund, to the national department or public entity affected by the withdrawal, provided that the amount of the transfer does not exceed the amount that would otherwise have been excluded from payment into the Fund.
- (4) The Minister must promptly inform Parliament of any withdrawal of an exclusion in terms of subsection (1).

15. Withdrawals and investments from National Revenue Fund

- (1) Only the National Treasury may withdraw money from the National Revenue Fund, and may do so only -
- (a) to provide funds that have been authorised -
 - (i) in terms of an appropriation by an Act of Parliament; or
 - (ii) as a direct charge against the National Revenue Fund provided for in the Constitution or this Act, or in any other Act of Parliament provided the direct charge in such a case is listed in [Schedule 5](#);
(Commencement date of proviso: 31 August 2001)
 - (b) to refund money invested by a province in the National Revenue Fund; or
 - (c) to refund money incorrectly paid into, or which is not due to, the National Revenue Fund.
- (2) A payment in terms of subsection (1) (b) or (c) is a direct charge against the National Revenue Fund.
- (3) (a) The National Treasury may invest temporarily, in the Republic or elsewhere,
money in the National Revenue Fund that is not immediately needed.
- (b) When money in the National Revenue Fund is invested, the investment, including interest earned, is regarded as part of the National Revenue Fund.

16. Use of funds in emergency situations

- (1) The Minister may authorise 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.
- (2) The combined amount of any authorisations in terms of subsection (1), may not exceed two per cent of the total amount appropriated in the annual national budget for the current financial year.
- (3) An amount authorised in terms of subsection (1) is a direct charge against the National Revenue Fund.
- (4) An amount authorised in terms of subsection (1) must -
 - (a) be reported to Parliament and the Auditor-General within 14 days, or if the funds are authorised for the deployment of the security services, within a period determined by the President; and
 - (b) be attributed to a vote.
- (5) A report to Parliament in terms of subsection (4) (a) must be submitted to the National Assembly for tabling in the Assembly and made public.
- (6) Expenditure in terms of subsection (1) must be included either in the next adjustments budget for the financial year in which the expenditure is authorised or in other appropriation legislation tabled in the National Assembly within 120 days of the Minister authorising the expenditure, whichever is the sooner.

CHAPTER 3

PROVINCIAL TREASURIES AND PROVINCIAL REVENUE FUNDS

Part 1: Provincial Treasuries

17. Establishment

- (1) There is a provincial treasury for each province, consisting of -
 - (a) the MEC for finance in the province, who is the head of the provincial treasury; and
 - (b) the provincial department responsible for financial matters in the province.
- (2) The MEC for finance as the head of a provincial treasury takes the policy and other decisions of the treasury, except those decisions taken as a result of a delegation or instruction in terms of [section 20](#).

[S. 17 inserted by s. 6 of Act 29/99]

18. Functions and powers

- (1) A provincial treasury must -
 - (a) prepare the provincial budget;
 - (b) exercise control over the implementation of the provincial budget;
 - (c) promote and enforce transparency and effective management in respect of revenue, expenditure, assets and liabilities of provincial departments and provincial public entities; and
 - (d) ensure that its fiscal policies do not materially and unreasonably prejudice national economic policies.

- (2) A provincial treasury -
 - (a) must issue provincial treasury instructions not inconsistent with this Act;
(Commencement date of para. (a): 31 August 2001)
 - (b) must enforce this Act and any prescribed national and provincial norms and standards, including any prescribed standards of generally recognised accounting practice and uniform classification systems, in provincial departments;
 - (c) must comply with the annual Division of Revenue Act, and monitor and assess the implementation of that Act in provincial public entities;
 - (d) must monitor and assess the implementation in provincial public entities of national and provincial norms and standards;
 - (e) may assist provincial departments and provincial public entities in building their capacity for efficient, effective and transparent financial management;
 - (f) may investigate any system of financial management and internal control applied by a provincial department or a provincial public entity;
 - (g) must intervene by taking appropriate steps, which may include the withholding of funds, to address a serious or persistent material breach of this Act by a provincial department or a provincial public entity;
 - (h) must promptly provide any information required by the National Treasury in terms of this Act; and

- (i) may do anything further that is necessary to fulfil its responsibilities effectively.

[S. 18 inserted by s. 6 of Act 29/99]

19. Annual consolidated financial statements

- (1) A provincial treasury must -
 - (a) prepare consolidated financial statements, in accordance with generally recognised accounting practice, for each financial year in respect of -
 - (i) provincial departments in the province;
 - (ii) public entities under the ownership control of the provincial executive of the province; and
 - (iii) the provincial legislature in the province; and
 - (b) submit those statements to the Auditor-General within three months after the end of that financial year.
 - (2) 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 months of receipt of the statements.
 - (3) The MEC for finance in a province must submit the consolidated financial statements and the audit report, within one month of receiving the report from the Auditor-General, to the provincial legislature for tabling in the legislature.
 - (4) The consolidated financial statements must be made public when submitted to the provincial legislature.
 - (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 months after the end of the financial year to which those statements relate -
 - (a) the MEC must submit to the legislature a written explanation setting out the reasons why they were not submitted; and
 - (b) the Auditor-General may issue a special report on the delay.
- [S. 19 inserted by s. 6 of Act 29/99]
(Commencement date of s. 19: 1 April 2003)

20. Delegations by provincial treasuries

- (1) The MEC for finance in a province may, in writing, delegate any of the powers entrusted or delegated to the provincial treasury in terms of this

Act to the head of the department referred to in [section 17](#) (1) (b), or instruct that head of department to perform any of the duties assigned to the provincial treasury in terms of this Act.

- (2) A delegation or instruction in terms of subsection (1) to the head of the department referred to in [section 17](#) (1) (b) -
- (a) is subject to any limitations or conditions that the MEC for finance may impose;
 - (b) may authorise that head -
 - (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
 - (c) does not divest the MEC for finance of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.
- (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.

[S. 20 inserted by s. 6 of Act 29/99]

Part 2: Provincial Revenue Funds

21. Control of Provincial Revenue Funds

- (1) The provincial treasury of a province is in charge of that province's Provincial Revenue Fund and must enforce compliance with the provisions of [section 226](#) of the Constitution, namely that -
- (a) all money received by the provincial government must promptly be paid into the Fund, except money reasonably excluded by this Act or another Act of Parliament; and
 - (b) no money may be withdrawn from the Fund except -

- (i) in terms of an appropriation by a provincial Act; or
 - (ii) as a direct charge against the Fund when it is provided for in the Constitution or a provincial Act.
- (2) Money that must be paid into the Provincial Revenue Fund is paid into the Fund by depositing it into a bank account of the Fund in accordance with any requirements that may be prescribed.
- (3) A provincial treasury must establish appropriate and effective cash management and banking arrangements for its Provincial Revenue Fund in accordance with the framework that must be prescribed in terms of [section 7](#).

[S. 21 inserted by s. 6 of Act 29/99]

22. Deposits into Provincial Revenue Funds

- (1) All money received by a provincial government, including the province's equitable share, and grants made to it, in terms of the annual Division of Revenue Act, must be paid into the province's Provincial Revenue Fund, except money received by -
 - (a) the provincial legislature in the province;
 - (b) a provincial public entity in the province;
 - (c) the provincial government from donor agencies which in terms of legislation or the agreement with the donor, must be paid to the Reconstruction and Development Programme Fund;
 - (d) a provincial department in the province -
 - (i) operating a trading entity, if the money is received in the ordinary course of operating the trading entity;
 - (ii) in trust for a specific person or category of persons or for a specific purpose;
 - (iii) from another department to render an agency service on behalf of that department;
 - (iv) in terms of the annual Division of Revenue Act, if the money is exempted by that Act from payment into the Revenue Fund; or
 - (v) if the money is of a kind described in [Schedule 4](#).
- (2) The exclusion in subsection (1) (b) does not apply to a provincial public entity in the province which is not listed in [Schedule 3](#) but which, in terms of [section 47](#), is required to be listed.

(Commencement date of sub-s. (2): 1 April 2001)

- (3) Draft legislation that excludes money from payment into a Provincial Revenue Fund may be introduced in Parliament only after the Minister has been consulted on the reasonableness of the exclusion and has consented to the exclusion.
- (4) Any legislation inconsistent with subsection (1) is of no force and effect to the extent of the inconsistency.
- (5) Money received by a provincial legislature or a provincial public entity listed in [Schedule 3](#) must be paid into a bank account opened by the entity concerned.

[S. 22 inserted by s. 6 of Act 29/99]

23. Withdrawal of exclusions from Provincial Revenue Funds

- (1) The National Treasury, after having consulted the relevant provincial treasury, may withdraw, from a date determined by it, any exclusion granted to a provincial department or provincial public entity in terms of [section 22](#) (1), either with regard to all money or with regard to money of a specific kind received by that department or public entity, if -
 - (a) the exclusion is not reasonable within the context of [section 226](#) of the Constitution; or
 - (b) the National Treasury regards the withdrawal of the exclusion to be necessary for transparency or more effective and accountable financial management.
- (2) The exclusion in terms of [section 22](#) (1) of a provincial government business enterprise which is a company and in which the relevant province is not the sole shareholder, may not be withdrawn, provided the National Treasury has given its prior written approval to the province to participate in a company that is not wholly owned by the province.
- (3) From the date on which the withdrawal of an exclusion in terms of subsection (1) takes effect until the end of the relevant financial year, a provincial treasury may transfer money from the Provincial Revenue Fund, as a direct charge against the Fund, to the provincial department or provincial public entity affected by the withdrawal of the exclusion -
 - (a) if a provincial Act provides for the transfer to be a direct charge; and
 - (b) provided that the amount of the transfer does not exceed the amount that would otherwise have been excluded from payment into the Fund.
- (4) The Minister must promptly inform Parliament of any withdrawal of an exclusion in terms of subsection (1).

[S. 23 inserted by s. 6 of Act 29/99]

24. Withdrawals and investments from Provincial Revenue Funds

- (1) Only a provincial treasury may withdraw money from a Provincial Revenue Fund, and may do so only -
 - (a) to provide funds that have been authorised -
 - (i) in terms of an appropriation by a provincial Act; or
 - (ii) as a direct charge against the Provincial Revenue Fund provided for in the Constitution or a provincial Act;
 - (b) to refund money incorrectly paid into, or which is not due to, the Provincial Revenue Fund; or
 - (c) to deposit into or invest money in the National Revenue Fund.
- (2) A payment in terms of subsection (1) (b) or (c) is a direct charge against a Provincial Revenue Fund if a provincial Act so provides.
- (3)
 - (a) A provincial treasury, in accordance with a prescribed framework, may invest temporarily in the Republic money in the province's Provincial Revenue Fund that is not immediately needed.
 - (b) When money in a Provincial Revenue Fund is invested, the investment, including interest earned, is regarded as part of that Fund.

[S. 24 inserted by s. 6 of Act 29/99]

25. Use of funds in emergency situations

- (1) The MEC for finance in a province may authorise the use of funds from that province's Provincial 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 in the province, be postponed to a future appropriation by the provincial legislature.
- (2) The combined amount of any authorisations in terms of subsection (1) may not exceed two per cent of the total amount appropriated in the annual provincial budget for the current financial year.
- (3) An amount authorised in terms of subsection (1) is a direct charge against the Provincial Revenue Fund if a provincial Act so provides.
- (4) An amount authorised in terms of subsection (1) must -

- (a) be reported to the provincial legislature and the Auditor-General within 14 days; and
 - (b) be attributed to a vote.
- (5) A report to a provincial legislature in terms of subsection (4) (a) must be submitted to the provincial legislature for tabling in the legislature and made public.
- (6) Expenditure in terms of subsection (1) must be included either in the next provincial adjustments budget for the financial year in which the expenditure is authorised, or in other appropriation legislation tabled in the provincial legislature within 120 days of the MEC for finance in the province authorising the expenditure, whichever is the sooner.
- [S. 25 inserted by s. 6 of Act 29/99]
[Chapter 3 inserted by s. 6 of Act 29/99]

CHAPTER 4

NATIONAL AND PROVINCIAL BUDGETS

[Heading substituted by s. 8 of Act 29/99]

26. Annual appropriations

Parliament and each provincial legislature must appropriate money for each financial year for the requirements of the state and the province, respectively.

[S. 26 substituted by s. 9 of Act 29/99]

27. National annual budgets

- (1) The Minister must table the annual budget 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.
- (2) The MEC for finance in a province must table the provincial annual budget for a financial year in the provincial legislature not later than two weeks after the tabling of the national annual budget, but the Minister may approve an extension of time for the tabling of a provincial budget.
- [Sub-s. (2) inserted by s. 10 of Act 29/99]
- (3) An annual budget must be in accordance with a format as may be prescribed, and must at least contain -
- (a) estimates of all revenue expected to be raised during the financial year to which the budget relates;
 - (b) estimates of current expenditure for that financial year per vote and per main division within the vote;

- (c) estimates of interest and debt servicing charges, and any repayments on loans;
 - (d) estimates of capital expenditure per vote and per main division within a vote for that financial year and the projected financial implications of that expenditure for future financial years;
 - (e) estimates of revenue excluded in terms of [section 13](#) (1) or [22](#) (1) from the relevant Revenue Fund for that financial year;
 [Para. (e) substituted by s. 10 of Act 29/99]
 (Commencement date of para. (e): 31 August 2001)
 - (f) estimates of all direct charges against the relevant Revenue Fund and standing appropriations for that financial year;
 [Para. (f) substituted by s. 10 of Act 29/99]
 - (g) proposals for financing any anticipated deficit for that financial year;
 - (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;
 - (i) the projected -
 - (i) revenue for the previous financial year;
 - (ii) expenditure per vote, and per main division within the vote, for the previous financial year; and
 - (iii) borrowing for the previous financial year; and
 - (j) any other information as may be prescribed, including any multi-year budget information.
- (4) When the annual budget is introduced in the National Assembly or a provincial legislature, the accounting officer for each department must submit to Parliament or the provincial legislature, as may be appropriate, measurable objectives for each main division within the department's vote. The relevant treasury may co-ordinate these submissions and consolidate them in one document.
 [Sub-s. (4) substituted by s. 10 of Act 29/99]
 (Commencement date of sub-s. (4): 1 August 2002)

28. Multi-year budget projections

- (1) The Minister and the MEC for finance in a province must annually table in the National Assembly and in that province's provincial legislature, respectively, a multiyear budget projection of -

- (a) the estimated revenue expected to be raised during each year of the multi-year period; and
 - (b) the estimated expenditure expected to be incurred per vote during each year of the multi-year period, differentiating between capital and current expenditure.
[Sub-s. (1) amended by s. 11 of Act 29/99]
- (2) A multi-year budget projection tabled by the Minister must contain the Minister's key macro-economic projections.

29. Expenditure before annual budget is passed

- (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 of the state or the province concerned during that financial year as direct charges against the Fund until the budget is passed.
[Sub-s. (1) substituted by s. 12 of Act 29/99]
- (2) Funds withdrawn from a Revenue Fund in terms of subsection (1) -
- (a) may be utilised only for services for which funds were appropriated in the previous annual budget or adjustments budget; and
 - (b) may not -
 - (i) during the first four months of that financial year, exceed 45 per cent of the total amount appropriated in the previous annual budget;
 - (ii) during each of the following months, exceed 10 per cent of the total amount appropriated in the previous annual budget; and
 - (iii) in aggregate, exceed the total amount appropriated in the previous annual budget.
- (3) The funds provided for in subsection (1) are not additional to funds appropriated for the relevant financial year, and any funds withdrawn in terms of that subsection must be regarded as forming part of the funds appropriated in the relevant annual budget for that financial year.
[Sub-s. (3) substituted by s. 12 of Act 29/99]
- (4) This section does not apply in respect of a province unless a provincial Act provides that the withdrawal of funds in terms of this section is a direct charge against that province's Revenue Fund.
[Sub-s. (4) added by s. 12 of Act 29/99]

30. National adjustments budgets

- (1) The Minister may table an adjustments budget in the National Assembly as and when necessary.
- (2) A national adjustments budget may only provide for -
 - (a) adjustments required due to significant and unforeseeable economic and financial events affecting the fiscal targets set by the annual budget;
 - (b) unforeseeable and unavoidable expenditure recommended by the national executive or any committee of Cabinet members to whom this task has been assigned;
 - (c) any expenditure in terms of [section 16](#);
 - (d) money to be appropriated for expenditure already announced by the Minister during the tabling of the annual budget;
 - (e) the shifting of funds between and within votes or to follow the transfer of functions in terms of [section 42](#);
 - (f) the utilisation of savings 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
 - (g) the roll-over of unspent funds from the preceding financial year.

31. Provincial adjustments budgets

- (1) The MEC for finance in a province may table an adjustments budget in the provincial legislature, subject to subsection (3).
- (2) An adjustments budget of a province may only provide for -
 - (a) the appropriation of funds that have become available to the province;
 - (b) unforeseeable and unavoidable expenditure recommended by the provincial Executive Council of the province within a framework determined by the Minister;
 - (c) any expenditure in terms of [section 25](#);
 - (d) money to be appropriated for expenditure already announced by the MEC for finance during the tabling of the annual budget;
 - (e) the shifting of funds between and within votes or to follow the transfer of functions in terms of [section 42](#);

- (f) the utilisation of savings under a main division within a vote for the defrayment of excess expenditure under another main division within the same vote in terms of [section 43](#); and
 - (g) the rollover of unspent funds from the preceding financial year.
- (3) The Minister may determine the time when an adjustments budget may be tabled in a provincial legislature, as well as the format for such budgets.
[S. 31 inserted by s. 13 of Act 29/99]

32. Publishing of reports on state of budget

- (1) Within 30 days after the end of each month, the National Treasury must publish in the national *Government Gazette* a statement of actual revenue and expenditure with regard to the National Revenue Fund.
- (2) After the end of a prescribed period, but at least quarterly, every provincial treasury must submit to the National Treasury a statement of revenue and expenditure with regard to the Revenue Fund for which that treasury is responsible, for publication in the national *Government Gazette* within 30 days after the end of each prescribed period.
[Sub-s. (2) inserted by s. 14 of Act 29/99]
- (3) The statement must specify the following amounts and compare those amounts in each instance with the corresponding budgeted amounts for the relevant financial year:
- (a) The actual revenue for the relevant period, and for the financial year up to the end of that period;
 - (b) the actual expenditure per vote (distinguishing between capital and current expenditure) for that period, and for the financial year up to the end of that period; and
 - (c) actual borrowings for that period, and for the financial year up to the end of that period.
- (4) The National Treasury may determine -
- (a) the format of the statement of revenue and expenditure; and
 - (b) any other detail the statement must contain.

33. Withholding of appropriated funds

The relevant treasury -

- (a) may withhold from a department any remaining funds appropriated for a specific function if that function is transferred to another department or any other institution; and

- (b) must allocate those remaining funds to that other department or institution.

[S. 33 amended by s. 15 of Act 29/99]

34. Unauthorised expenditure

- (1) Unauthorised expenditure does not become a charge against a Revenue Fund except when -
 - (a) the expenditure is an overspending of a vote and Parliament or a provincial legislature, as may be appropriate, approves, as a direct charge against the relevant Revenue Fund, an additional amount for that vote which covers the overspending; or
 - (b) the expenditure is unauthorised for another reason and Parliament or a provincial legislature, as may be appropriate, authorises the expenditure as a direct charge against the relevant Revenue Fund.
- (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.

[S. 34 substituted by s. 16 of Act 29/99]

35. Unfunded mandates

Draft national legislation that assigns an additional function or power to, or imposes any other obligation on, a provincial government, must, in a memorandum that must be introduced in Parliament with that legislation, give a projection of the financial implications of that function, power or obligation to the province.

[S. 35 inserted by s. 17 of Act 29/99]

CHAPTER 5

DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS

Part 1: Appointment of Accounting Officers

36. Accounting officers

- (1) Every department and every constitutional institution must have an accounting officer.
- (2) Subject to subsection (3) -
 - (a) the head of a department must be the accounting officer for the department; and

- (b) the chief executive officer of a constitutional institution must be the accounting officer for that institution.
- (3) The relevant treasury may, in exceptional circumstances, approve or instruct in writing that a person other than the person mentioned in subsection (2) be the accounting officer for -
 - (a) a department or a constitutional institution; or
 - (b) a trading entity within a department.
[Sub-s. (3) amended by s. 18 of Act 29/99]
- (4) The relevant treasury may at any time withdraw in writing an approval or instruction in terms of subsection (3).
[Sub-s. (4) substituted by s. 18 of Act 29/99]
- (5) The employment contract of an accounting officer for a department, trading entity or constitutional institution must be in writing and, where possible, include performance standards. The provisions of [sections 38](#) to [42](#), as may be appropriate, are regarded as forming part of each such contract.

37. Acting accounting officers

When an accounting officer is absent or otherwise unable to perform the functions of accounting officer, or during a vacancy, the functions of accounting officer must be performed by the official acting in the place of that accounting officer.

Part 2: Responsibilities of Accounting Officers

38. General responsibilities of accounting officers

- (1) The accounting officer for a department, trading entity or constitutional institution -
 - (a) must ensure that that department, trading entity or constitutional institution has and maintains -
 - (i) effective, efficient and transparent systems of financial and risk management and internal control;
 - (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](#);
 - (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;

- (iv) a system for properly evaluating all major capital projects prior to a final decision on the project;
- (b) is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution;
- (c) must take effective and appropriate steps to -
 - (i) collect all money due to the department, trading entity or constitutional institution;
 - (ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; and
 - (iii) manage available working capital efficiently and economically;
- (d) is responsible for the management, including the safeguarding and the maintenance of the assets, and for the management of the liabilities, of the department, trading entity or constitutional institution;
- (e) must comply with any tax, levy, duty, pension and audit commitments as may be required by legislation;
- (f) must settle all contractual obligations and pay all money owing, including intergovernmental claims, within the prescribed or agreed period;
- (g) on discovery of any unauthorised, irregular or fruitless and wasteful expenditure, must immediately report, in writing, particulars of the expenditure to the relevant treasury and in the case of irregular expenditure involving the procurement of goods or services, also to the relevant tender board;
[Para. (g) substituted by s. 19 of Act 29/99]
- (h) must take effective and appropriate disciplinary steps against any official in the service of the department, trading entity or constitutional institution who -
 - (i) contravenes or fails to comply with a provision of this Act;
 - (ii) commits an act which undermines the financial management and internal control system of the department, trading entity or constitutional institution; or
 - (iii) makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure;

- (i) when transferring funds in terms of the annual Division of Revenue Act, must ensure that the provisions of that Act are complied with;
 - (j) before transferring any funds (other than grants in terms of the annual Division of Revenue Act or to a constitutional institution) to an entity within or outside government, must obtain a written assurance from the entity that that entity implements effective, efficient and transparent financial management and internal control systems, or, if such written assurance is not or cannot be given, render the transfer of the funds subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems;
 - (k) must enforce compliance with any prescribed conditions if the department, trading entity or constitutional institution gives financial assistance to any entity or person;
 - (l) must take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting the accounting officer's responsibilities are considered, and when necessary, bring those considerations to the attention of the responsible executive authority;
 - (m) must promptly consult and seek the prior written consent 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
 - (n) must comply, and ensure compliance by the department, trading entity or constitutional institution, with the provisions of this Act.
- (2) An accounting officer may not commit a department, trading entity or constitutional institution to any liability for which money has not been appropriated.

(Commencement date of sub-s. (2): 31 August 2001)

39. Accounting officers' responsibilities relating to budgetary control

- (1) The accounting officer for a department is responsible for ensuring that
 - (a) expenditure of that department is in accordance with the vote of the department and the main divisions within the vote; and
 - (b) effective and appropriate steps are taken to prevent unauthorised expenditure.
- (2) An accounting officer, for the purposes of subsection (1), must -

- (a) take effective and appropriate steps to prevent any overspending of the vote of the department or a main division within the vote;
- (b) report to the executive authority and the relevant treasury any impending -
 - (i) under collection of revenue due;
 - (ii) shortfalls in budgeted revenue; and
 - (iii) overspending of the department's vote or a main division within the vote; and
[Para. (b) amended by s. 20 of Act 29/99]
- (c) comply with any remedial measures imposed by the relevant treasury in terms of this Act to prevent overspending of the vote or a main division within the vote.
[Para. (c) substituted by s. 20 of Act 29/99]

40. Accounting officers' reporting responsibilities

- (1) The accounting officer for a department, trading entity or constitutional institution -
 - (a) must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;
 - (b) must prepare financial statements for each financial year in accordance with generally recognized accounting practice;
 - (c) must submit those financial statements within two months after the end of the financial year to -
 - (i) the Auditor-General for auditing; and
 - (ii) the relevant treasury to enable that treasury to prepare consolidated financial statements in terms of section 8 or 19;
[Sub-para. (ii) substituted by s. 21 of Act 29/99]
 - (d) must submit within five months of the end of a financial year to the relevant treasury and, in the case of a department or trading entity, also to the executive authority responsible for that department or trading entity -
 - (i) an annual report on the activities of that department, trading entity or constitutional institution during that financial year;
 - (ii) the financial statements for that financial year after those statements have been audited; and

(iii) the Auditor-General's report on those statements;
[Para. (d) amended by s. 21 of Act 29/99]

(e) must, in the case of a constitutional institution, submit to Parliament that institution's annual report and financial statements referred to in paragraph (d), and the Auditor-General's report on those statements, within one month after the accounting officer received the Auditor-General's audit report; and

(f) is responsible for the submission by the department or constitutional institution of all reports, returns, notices and other information to Parliament, the relevant provincial legislature, an executive authority, the relevant treasury or the Auditor-General, as may be required by this Act.

[Para. (f) substituted by s. 21 of Act 29/99]

(2) 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 receipt of the statements.

(3) The annual report and 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, its performance against predetermined objectives and its financial position as at the end of the financial year concerned; and

(b) include particulars of -

(i) any material losses through criminal conduct, and any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure, that occurred during the financial year;

(ii) any criminal or disciplinary steps taken as a result of such losses, unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure;

(iii) any material losses recovered or written off; and

(iv) any other matters that may be prescribed.

(4) The accounting officer of a department must -

(a) each year before the beginning of a financial year provide the relevant treasury in the prescribed format with a breakdown per month of the anticipated revenue and expenditure of that department for that financial year;

[Para. (a) substituted by s. 21 of Act 29/99]

- (b) each month submit information in the prescribed format on actual revenue and expenditure for the preceding month and the amounts anticipated for that month in terms of paragraph (a); and
- (c) within 15 days of the end of each month 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.

[Para. (c) amended by s. 21 of Act 29/99]

- (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 report the inability, together with reasons, to the relevant executive authority and treasury.

41. Information to be submitted by accounting officers

An accounting officer for a department, trading entity or constitutional institution 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.

[S. 41 substituted by s. 22 of Act 29/99]

42. Accounting officers' responsibilities when assets and liabilities are transferred

- (1) When assets or liabilities of a department are transferred to another department or other institution 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 other institution with substantiating records, including personnel records of staff to be transferred.