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GOVERNMENT NOTICE

NATIONAL TREASURY

No. R. 238

9 March 2001

PUBLIC FINANCE MANAGEMENT ACT, 1999: DRAFT TREASURY REGULATIONS

The draft Treasury Regulations are set out in the Schedule and are hereby published for public comment in terms of section 78 of the Public Finance Management Act, 1999.

Interested persons who wish to comment on the draft Treasury Regulations may submit their representations in writing before 26th March 2001 to:

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

All representations must be marked for the attention of **Mr Jayce Nair** and may either be posted to the above address, transmitted by fax to **012 – 315 5045** or by e-mail to **Jayce.Nair@treasury.gov.za**

SCHEDULE

**Treasury Regulations for
departments, [and] constitutional
institutions, public entities,
Parliament and provincial
legislatures**

**Issued in terms of the
Public Finance Management Act, 1999**

National Treasury

Republic of South Africa

[May 2000]March 2001



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PART 1**Definitions, [and A]application and
date of commencement**

1

General definitions, [and] application and date of commencement

1.1 General definitions

In these *Treasury Regulations*, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and –

“**Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999 as amended by Act No. 29 of 1999);

“**debt**” means amounts owing to the state;

“**division of revenue grants**” refers to allocations from the national government to other spheres of government as listed in **[Schedules 3A, 3B and 3C of the]**schedules to the Annual Division of Revenue Act, **[2000.]** including transfers in terms of **[section 16 of]** that Act;

“**executive authority**” in relation to a constitutional institution means the chairperson of the relevant constitutional institution;

“**head official of the treasury**” refers to the administrative head of the department responsible for financial and fiscal matters and which forms part of the relevant treasury;

“**institution**” refers to a department or a constitutional institution;

“**official**” means an employee contemplated in section 1 of the Public Service Act, 1994, read with section 1 of the Public Service Amendment Act (Act No. 13 of 1996); and includes a magistrate contemplated in section 1 of the Magistrates Act, 1993 (Act No. 90 of 1993) and employees of constitutional institutions;

[“transfer payments” refer to all transfers excluding–

- (a) all division of revenue grants from the national government; and**
- (b) any transfers to constitutional institutions and individuals.]**

1.2 Application

1.2.1 These *Treasury Regulations* apply–

- (a) to all departments and constitutional institutions; [and]**
- (b) to all public entities listed in Schedules 3A and 3C whose annual budget for its next financial year is less than R100 million, but only to the extent of Chapters 24 to 26, 28 and 30 to 33 of these *Treasury Regulations*;**
- (c) to all public entities listed in Schedules 3A and 3C whose annual budget exceeds or equals R100 million, but only to the extent of Chapters 24 to 28 and 30 to 33 of these *Treasury Regulations*;**
- [b](d) to the South African Revenue Service, but only to the extent as indicated in Chapter 15 (paragraph 15.4) and Chapters 24, 25, 27, 28, 30, 31, 32 and 33;**
 - [(i) that it collects and administers state revenue; and]**

Treasury Regulations: PFMA

[b](d) to the South African Revenue Service, but only to the extent as indicated in Chapter 15 (paragraph 15.4) and Chapters 24, 25, 27, 28, 30, 31, 32 and 33;

[(i) that it collects and administers state revenue; and]

[(ii) as agreed to between it and the National Treasury.]

(d) to Schedule 2, 3B and 3D public entities but only to the extent as indicated in Chapters 25, 27, 28, 29, 31, 32 and 33

(e) to Parliament and the provincial legislatures, but only to the extent as indicated in Chapter 15 (paragraphs 15.7 and 15.8) and Chapter 18 (paragraph 18.3).

1.2.[2]3 For purposes of Schedule 3 public entities, the next financial year ends on 31 March 2003, but begins on or after 1 September 2002 as determined by section 28.1.2 of these regulations.

1.2.4 For purposes of paragraph 1.2.1**[b](a)**, the *Treasury Regulations* that do apply to the South African Revenue Services, apply as though it were a department. Its Commissioner is the accounting officer.

[1.2.3 These regulations do not apply to Parliament, provincial legislatures and public entities.]

1.3 Date of commencement

1.3.1 These *Treasury Regulations* take effect from 1 April 2001, unless otherwise indicated in the text.

PART 2

Management Arrangements

*Part 2: Management arrangements***2****Corporate management****2.1 Chief financial officer**

- 2.1.1 Unless directed otherwise by the relevant treasury, **[the accounting officer of an] each institution must [appoint an official as] have a chief financial officer (CFO) [no later than 1 April 2001,] [to] serving[e] on the senior management team of the institution.**
- 2.1.2 The CFO is directly accountable to the accounting officer.
- 2.1.3 Without limiting the right of the accounting officer to assign specific responsibilities, the general responsibility of the CFO is to assist the accounting officer in discharging the duties **[under] prescribed in Part 2 of Chapter 5 of the Act and the Annual Division of Revenue Act. These duties relate to the effective financial management of the institution; the exercise of sound budgeting and budgetary control practices; the operation of internal controls and the timely production of financial reports.**

*Treasury Regulations: PFMA***3****Internal control****3.1 Audit committees [Sections 76(4)(d) and 77 of the PFMA]**

- 3.1.1 **[The relevant treasury may determine whether departments have shared or non-shared audit committees.]** The relevant treasury must inform the Auditor-General by no later than 1 April 2001 of any determination to share audit committees between departments.
- 3.1.2 In the case of a non-shared audit committee, the accounting officer of an institution must appoint audit committee members in consultation with the relevant executive authority.
- 3.1.3 In the case of a shared audit committee, the head of the relevant treasury must appoint audit committee members after consultation with the relevant executive authorities.
- 3.1.4 In addition to section 77(a)(iii) of the Act, the chairperson of the audit committee may not be a political office bearer.
- 3.1.5 Audit committees must be constituted so as to ensure their independence.
- 3.1.6 Members of an audit committee who have been appointed from outside the public service pursuant to section 77(a)(i) of the Act, must have proven experience, be appointed on contract and remunerated in accordance with [with paragraphs 20.2.2 and 20.2.3 of these Treasury Regulations] tariffs as determined by the South African Institute of Chartered Accountants in consultation with the Auditor-General.
- 3.1.7 The relevant executive authority has to concur with any pre-mature termination of **[the]** services of a person serving on the audit committee.
- 3.1.8 The audit committee must establish an audit charter to guide the audit approach, as well as its *modus operandi*, which should spell out the rules that govern the audit relationship.
- [3.1.9 The audit committee and the accounting officer must facilitate a risk assessment to determine the material risks to which the institution may be exposed and to evaluate the strategy for managing those risks. The strategy must be used to direct audit effort and priority, and to determine the skills required to manage these risks.]**
- 3.1.**[10]**⁹ The audit committee must report and make recommendations to the accounting officer, but the accounting officer retains responsibility for implementing such recommendations.
- 3.1.**[11]**¹⁰ In addition to the above, the audit committee must—
- (a) evaluate the financial statements of the institution for reasonableness [reasonability] and [accuracy] fair presentation before submission to the Auditor-General; [and]
 - (b) in the annual report [on] of the institution, comment on:[the effectiveness of internal control in the annual report of the institution.]
 - (i) the effectiveness of internal control; and
 - (ii) the quality of in year management and monthly reports produced in terms of the Act and the Annual Division of Revenue Act.

Part 2: Management arrangements

3.1.[12]11 Should a report from the internal audit unit (or from any other source) to the audit committee implicate the accounting officer in fraud, corruption or gross negligence, the chairperson of the audit committee must promptly report this to the relevant executive authority.

3.1.[13]12 The audit committee may communicate any concerns it deems necessary to the executive authority, the relevant treasury and/or the Auditor-General.

3.2 Internal controls and internal audit [Sections 38(1)(a)(i) and 76(4)(e) of the PFMA]

3.2.1 The accounting officer must facilitate a risk assessment to determine the material risks to which the institution may be exposed and to evaluate the strategy for managing those risks. Such a strategy must include a fraud prevention plan. The strategy must be used to direct internal audit effort and priority, and to determine the skills required to manage these risks.

3.2.[1]2 The accounting officer must provide a certificate to the relevant treasury by 30 June 2001 indicating that the risk assessment has been completed and that the fraud prevention plan is fully operational. [ensure that a fraud prevention plan is developed no later than 31 March 2001.]

3.2.[2]3 Accounting officers must establish internal audit units for their institutions in accordance with the policy determined in terms of paragraph 3.2.4.

3.2.[3]4 [The relevant treasury may determine whether departments must have internal audit units and whether such units must be shared or non-shared units.] The relevant treasury must inform the Auditor-General by no later than 1 April 2001 of any determination to share internal audit units between departments.

3.2.[4]5 The internal audit unit may be partly or wholly contracted to an external organisation with specialist audit expertise, provided that its selection is in accordance with the government's competitive tendering procedures.

3.2.[5]6 Internal audit must be conducted in accordance with the standards set by the Institute of Internal Auditors.

3.2.[6]7 The internal audit unit must prepare, in consultation with and for approval by, the audit committee—

- (a) a rolling three-year strategic internal audit plan based on its assessment of key areas of risk for the institution, having regard to its current operations, those proposed in its strategic plan and its risk management strategy;
- (b) an annual internal audit plan for the first year of the rolling plan;
- (c) plans indicating the proposed scope of each audit in the annual internal audit plan;
- (d) a *modus operandi*, with management inputs, to guide the audit relationship; and
- (e) a quarterly report to the audit committee detailing its performance against the plan, to allow effective monitoring and possible intervention.

3.2.8 The internal audit unit must exercise regular oversight over all transfers received, including transfers in terms of the Annual Division of Revenue Act.

3.2.[7]9 The internal audit unit must be independent, with no limitation on its access to information.

Financial misconduct

4.1 Investigation of alleged financial misconduct [Sections 85(1)(b), (c) and (d) of the PFMA and Section 30 of the annual Division of Revenue Act]

- 4.1.1 If an official is alleged to have committed financial misconduct, the accounting officer of the institution must ensure that disciplinary proceedings are carried out in accordance with the relevant prescripts.
- 4.1.2 The accounting officer must ensure that the investigation is conducted within a reasonable period, but no later than 30 days.
- 4.1.3 If an accounting officer is alleged to have committed financial misconduct, the relevant treasury, as soon as it becomes aware of the alleged misconduct, must ensure that the Department of Public Service and Administration initiates appropriate disciplinary proceedings against the accounting officer.
- 4.1.4 A treasury may—
 - (a) direct that an official other than an employee of the institution conducts the investigation; or
 - (b) issue any reasonable requirement regarding the way in which the investigation should be performed.

4.2 Criminal proceedings [Section 86 of the PFMA]

- 4.2.1 The accounting officer must advise the executive authority, relevant treasury and the Auditor-General of any criminal charges it has laid against any person in terms of section 86 of the Act.
- 4.2.2 The relevant treasury may direct an institution to lay charges of criminal financial misconduct against any person should an accounting officer fail to take appropriate action.

4.3 Reporting [Section 85(1)(a) and (e) of the PFMA]

- 4.3.1 The accounting officer must, as soon as the disciplinary hearings are completed, report to the executive authority, the Department of Public Service and Administration and the Public Service Commission on the outcome, including—
 - (a) the name and rank of the official against whom proceedings are instituted;
 - (b) the disciplinary charges, indicating the financial misconduct the official is alleged to have committed;
 - (c) the findings of the disciplinary hearing;
 - (d) any sanction imposed on the official; and
 - (e) any further action to be taken against the official, including criminal charges or civil proceedings.

Part 2: Management arrangements

- 4.3.2 The institution must inform the executive authority, the relevant treasury, the Department of Public Service and Administration and the Public Service Commission of the outcome of any criminal proceedings instituted against any person for financial misconduct in terms of section 86 of the Act.
- 4.3.3 The accounting officer must, on an annual basis, submit to the provincial treasury (if applicable), [national] National Treasury and Auditor-General a schedule of—
- (a) the name and rank of officials facing disciplinary hearings or criminal charges;
 - (b) the outcome of any disciplinary hearings and/or criminal charges; and
 - (c) the sanctions and any further action taken against the relevant official;

Such a report must refer to any changes to the institution's systems of financial and risk management or any other matter dealt with in the Act, as a result of the investigation.

PART 3

Planning and Budgeting

5

Strategic planning

5.1 Date of implementation

- 5.1.1 This chapter takes effect from 1 April 2002. The first date for submission of strategic plans is 30 June 2001 for the MTEF period commencing 1 April 2002. Quarterly reports on performance take effect from 30 June 2002, starting with a report on the first quarter of the 2002/03 financial year.

5.2 Strategic plans

- 5.2.1 The accounting officer of an institution must prepare a strategic plan for the forthcoming Medium Term Expenditure Framework (MTEF) period, for approval by the relevant executive authority.
- 5.2.2 The approved strategic plan must be forwarded to the relevant treasury no later than 30 June each year.
- 5.2.3 The strategic plan must—
- (a) cover a period of three years and be consistent with the institution's input to the MTEF;
 - (b) include the programme objectives and outcomes identified by the executive authority, as well as the Service Delivery Improvement Programme;
 - (c) include the multi-year projections of revenue and expenditure for the forthcoming budget;
 - (d) include the key performance measures and key indicators of the Service Delivery Improvement Programme for assessing the institution's performance in delivering the desired outcomes and objectives;
 - (e) be updated annually on a rolling basis, including any adjustments to the organisational structure;
 - (f) for departments, include the requirements of Chapter 1, Part III B of the *Public Service Regulations, [1999] 2001*; and
 - (g) form the basis for the annual reports of accounting officers in terms of section 40(1)(d) and (e) of the Act.

5.3 Evaluation of performance [Section 27(4) read with 36(5) of the PFMA]

- 5.3.1 The accounting officer of an institution must establish procedures for quarterly reporting to facilitate effective performance monitoring, evaluation and corrective action.
- 5.3.2 The accounting officer must issue quarterly reports to the executive authority no later than 15 days after the end of each quarter.

Budgeting and related matters

6.1 Annual budget circular

- 6.1.1 The accounting officer of a department must comply with any annual budget circulars issued by the relevant treasury. Budget circulars issued by provincial treasuries must be consistent with any budget circular issued by the [national] National Treasury to provincial treasuries.
- 6.1.2 The accounting officer of a constitutional institution must submit all submissions for a budget via the accounting officer of the department transferring funds to that constitutional institution.
- 6.1.3 The accounting officer of a department must ensure that all budget submissions of constitutional institutions and any public entities receiving transfers via the department, are included in his/her department's budget submission, [unless exempted by the relevant treasury.]

6.2 Formats for Estimates of Expenditure and Departmental Revenue [Section 27(3) of the PFMA]

- 6.2.1 The Estimates of Expenditure and Departmental Revenue presented to Parliament or a provincial legislature must conform to the formats determined by the [national] National Treasury.

6.3 Virement [Section [44] 43 of the PFMA]

- 6.3.1 For purposes of section 43(1) of the Act—
- (a) personnel expenditure and transfers by departments may not be increased without [prior] approval of the relevant treasury; and
 - (b) allocations earmarked by the relevant treasury for a specific purpose may not be used for other purposes except with the relevant treasury's approval.

6.4 Rollovers [Sections 30(2)(g) and 31(2)(g) of the PFMA]

- 6.4.1 Funds appropriated but not spent in a particular financial year may be rolled over to a subsequent year subject to the following conditions or limitations—
- (a) *Capital expenditure*: Unspent funds on capital expenditure may only be rolled over to finalise projects still in progress or for other capital purposes.
 - (b) *Transfer payments*: Savings on transfer payments may not be rolled over for purposes other than originally voted for.
 - (c) *Current expenditure*: A maximum of five per cent of a department's current expenditure in the main estimate of expenditure may be rolled over.
- 6.4.2 Requests for rollovers must be submitted to the relevant treasury on or before the last working day of May each year, in a format determined by the [national] National Treasury.

*Part 3: Planning and budgeting***6.4.3 All requests for rollovers must include:**

- (a) the reasons for the under spending;
- (b) commitments that the funds rolled over will be spent;
- (c) an assessment of the spending capacity taking into consideration the new budget allocation and the rolled over funds.

6.4.[3]4 The relevant treasury may deny all or part of a request for a rollover [if this request does not conform to the arrangements in paragraphs 6.4.1 and 6.4.2 or] if circumstances warrant such a denial.

6.5 Transfer of functions [Section 42 of the PFMA and Section 27 of DORA]

6.5.1 Where a function is to be transferred by a department during a financial year, the relevant treasury must be consulted in advance, to facilitate any request for the resulting transfer of funds voted for that function in terms of section 33 of the Act.

6.5.2 Should the Minister of Public Service and Administration or a Premier of a province make a determination regarding the transfer of a function in terms of the Public Service Act, 1994, that determination must accompany a request for the transfer of funds as per paragraph 6.5.1. Should the Minister of Public Service and Administration or a Premier approve a function transfer after the finalisation of the adjustments estimates, it must be dealt with on a recoverable basis.

6.5.3 Before seeking formal approval from the Minister of Public Service and Administration or the Premier of a province for any transfer of functions to another sphere of government, the transferring accounting officer must first seek the approval of the relevant treasury on any funding arrangements.

6.5.4 Transfer of functions to municipalities must be dealt with in terms of the Annual Division of Revenue Act.

6.6 Additional funds through an adjustments budget [Sections 30(2)(b) and 31(2)(b) of the PFMA]

6.6.1 For purposes of an adjustments budget, the following will not be considered unforeseeable and unavoidable expenditure—

- (a) expenditure that, although known when finalising the estimates of expenditure, could not be accommodated within allocations;
- (b) tariff adjustments and price increases; and
- (c) extensions of existing services and the creation of new services that are not unforeseeable and unavoidable.

6.6.2 The department requesting additional funds through an adjustments budget must submit a memorandum to the relevant treasury, the Cabinet/EXCO Secretariat and any treasury subcommittee of the Cabinet/EXCO, on a date determined by the relevant treasury, but by no later than 15 September.

PART 4

Revenue and Expenditure Management

7

Revenue management

7.1 Application of these *Treasury Regulations*

- 7.1.1 The *Treasury Regulations* in this chapter apply to the identification, collection, recording and safeguarding of all revenue for which an institution is responsible.

7.2 Responsibility for revenue management

- 7.2.1 The accounting officer of an institution must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, safeguarding, recording and reconciliation of information about revenue.

7.3 Services rendered by the state

- 7.3.1 The accounting officer of an institution must review, at least annually when finalising the budget, all fees, charges or the rates, scales or tariffs of fees and charges that are not, or cannot, be fixed by any law and that relate to revenue accruing to a revenue fund. The accounting officer must obtain approval from the relevant treasury for the proposed tariff structure.
- 7.3.2 Information on the tariff [policy] structure must be disclosed in the annual report, including information on any free service(s) rendered, but not taken into account in the budget and which could have yielded significant revenue.

Expenditure management

8.1 Responsibility of the accounting officer [Section 76(4)(b) of the PFMA]

- 8.1.1 The accounting officer of an institution must ensure that internal procedures and internal control measures are in place for payment approval and processing.

8.2 Approval of expenditure [Section 38(1)(f) and 76(4)(b) of the PFMA]

- 8.2.1 An official of an institution may not spend or commit public money except with the approval (either in writing or by duly authorised electronic means) of a properly delegated or authorised officer.
- 8.2.2 Before approving expenditure or incurring a commitment to spend, the delegated or authorised official must ensure that any limitations or conditions attached to the delegation or authorisation are complied with.
- 8.2.3 Unless determined otherwise in a contract or other agreement, all payments due to creditors must be settled within 30 days from the date of a statement which reflects all invoices, payments and credits and, in the case of civil claims, from the date of settlement or court judgement.
- 8.2.4 Where creditors have not been settled within the period prescribed in paragraph 8.2.3, a report must be forwarded to the EXCO and to the relevant treasury stating reasons for the non-compliance.

8.3 Personnel costs [Section 76(4)(b) of the PFMA]

- 8.3.1 Activities relating to the authorisation of appointments, the authorisation of payments and the recording of those payments may not be performed by the same person.
- 8.3.2 The accounting officer of an institution must ensure that the personnel cost of all appointees, as well as promotion and salary increases, can be met within the budgetary allocation of the institution.
- 8.3.3 Unless otherwise determined by the [national] National Treasury, personnel are divided into the following groups for the payment of salaries—
- (a) *Group A:* Persons who must be paid on the 15th day of the month, or if it is not a working day, on the last working day preceding the 15th. These include—
 - (i) persons appointed permanently on the fixed establishment and employed in terms of the Public Service Act, 1994; and
 - (ii) persons appointed on contract.
 - (b) *Group B:* This group represents personnel paid on the last working day of the month and includes temporary and part-time staff, and persons appointed on probation.
- 8.3.4 For both Group A and B employees, the person in charge at the respective pay-points must certify that all persons listed on the payroll report are entitled for payment. Persons paid by cheque must sign on the payroll report upon collection of the cheque.

Part 4: Revenue and expenditure management

8.3.5 Within 10 days after its certification, the payroll report must be returned for the attention of the chief financial officer. The chief financial officer must ensure that all pay-point certificates have been received on a monthly basis.

8.4 [Division of Revenue grants] Transfers and grants [Section 38(1)(i) and (j) of the PFMA]

[8.4.1 Accounting officers of departments making or receiving grants to or from other spheres of government in terms of the annual Division of Revenue Act must comply with the reporting requirements of that Act.]

[8.5 Transfer payments (excluding Division of Revenue grants) [Section 38(1)(j) of the PFMA]]

8.4.1 An accounting officer transferring any grant or transfer, excepting those to constitutional institutions, households or as unconditional contributions must ensure that all such grants are subject to an audit on expenditure as prescribed by the Act.

8.4.2 Accounting officers making grants or transfers must, by 30 April 2001, classify these as follows:

- (a) Grants and contributions, which are grants to households and unconditional contributions which do not require any further auditing after transfer;
- (b) Division of Revenue Grants, which are grants to other spheres of government, and which fall under the annual Division of Revenue Act;
- (c) Statutory grants which are grants to constitutional institutions and grants to public entities to perform functions in terms of an Act governing that entity.
- (d) Programme grants which are grants to public or private entities for the purpose of fulfilling a function budgeted in or within a main division of that department, where such a department is directly responsible for specific outputs.

8.4.3 The accounting officer responsible for transferring a programme grant must ensure that the receiving entity for programme grants submits monthly reports ten days after the end of each month on actual expenditure. Such reports must be reported when compiling the department's monthly section 40(4) reports.

8.[5]4.[1]4 Processes for transfer payments must ensure compliance with all relevant legislation and government policies, and provide for the identification, approval, payment and recording of transfer payment expenses.

8.[5]4.[2]5 The accounting officer of any institution transferring funds not covered by the annual Division of Revenue Act, and where the transfer is not to a grant or contribution, or a statutory grant to a constitutional institution or public entity [an individual, constitutional institution, public entity] or an institution audited by the Office of the Auditor-General, must ensure that the institution receiving the grant submits with its certificate of compliance in terms of section 38(1)(j) of the Act, the most recent audited statement and any annual report, before any funds are transferred. [An accounting officer transferring funds to a school, hospital or clinic may delay implementation of this clause, if applicable, but no later than 31 January 2001.]

8.[5]4.[3]6 Approving transfer payment expenses includes—

- (a) incurring a transfer payment expense for authorised purposes only; and
- (b) ensuring that—

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- (i) the beneficiary complied with the conditions, if any, attached to the previous year's assistance;
- (ii) continued assistance and financial aid are still necessary;
- (iii) the agreed objectives were attained; and
- (iv) the transfer payment expense provides reasonable value for money in procuring programmes related to the functional responsibility of the department.

8.[5]4.[4]7 A transfer payment must not be made unless and until—

- (a) proper assurance has been obtained that the payment is valid and the amount is correct; and
- (b) the department has made adequate cash management arrangements.

8.[6]5 Charging of expenditure against a particular vote or main division of a vote [Section 76(2)(b) of the PFMA]

8.[6]5.1 Should a dispute arise over which vote or main division of a vote should be charged with any particular expenditure, the relevant treasury must settle the dispute and determine the vote or main division against which the expenditure must be charged.

8.[7]6 Cancellation and variation of contracts [Section 76(1)(g) of the PFMA]

8.[7]6.1 No contract (excluding personnel contracts) may be cancelled or changed to the detriment of the state without the [prior] approval of the relevant treasury.

8.7 Procurement

8.7.1 Accounting officers must ensure that adequate procedures are in place within their institutions to protect the interests of the State as changes are made to procurement arrangements.

9

Unauthorised, irregular, fruitless and wasteful expenditure

9.1 General [Sections 38(1)(g) and 76(2)(e) of the PFMA]

- 9.1.1 The accounting officer of a department must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.
- 9.1.2 When an official of a department discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. Such expenditure must also be reported in the monthly report, as required by section 40(4)(b) of the Act. Where irregular expenditure occurred in contravention of tender procedures, the relevant tender board must also be notified.
- 9.1.3 When an accounting officer determines the appropriateness of disciplinary steps against an official in terms of section 38(1)(g) of the Act, the accounting officer must take into account—
 - (a) the circumstances of the transgression;
 - (b) the extent of the expenditure involved; and
 - (c) the nature and seriousness of the transgression.
- 9.1.4 The recovery of losses or damages resulting from unauthorised, irregular or fruitless and wasteful expenditure must be dealt with in accordance with Chapter 12 of these *Treasury Regulations*.
- 9.1.5 The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.

PART 5

Asset and Liability Management

10

Asset management

10.1 Responsibility for asset management [Section 38(1)(d) of the PFMA]

- 10.1.1 The accounting officer of an institution must take full responsibility and ensure that proper control systems exist for assets and that—
- (a) preventative mechanisms are in place to eliminate theft, losses, wastage and misuse; and
 - (b) stock levels are at an optimum and economical level.
- 10.1.2 The accounting officer must ensure that processes (whether manual or electronic) and procedures are in place for the effective, efficient, economical and transparent use of the institution's assets.

10.2 Disposal and letting of assets [Section 76(1)(k) of the PFMA]

- 10.2.1 Disposal of movable assets must be at **[book]** market value or by tender or auction, whichever is most advantageous to the state, unless determined otherwise by the relevant treasury.
- 10.2.2 Any sale of immovable state property must be at market value, unless the relevant treasury approves otherwise.
- 10.2.3 The letting of immovable state property (excluding state housing for officials) must be at market-related tariffs, unless the relevant treasury approves otherwise. No state property may be let free of charge without the prior approval of the relevant treasury.
- 10.2.4 The accounting officer must review, at least annually when finalising the budget, all fees, charges, rates, tariffs or scales of fees or other charges relating to the letting of state property to ensure sound financial planning and management.

10.3 Assets accruing to the state by operation of any law [Section 76(2)(i) of the PFMA]

- 10.3.1 Where any money, property or right accrues to the state by operation of law (*bona vacantia*), the responsible executive authority may exercise all powers, authority and prerogatives, and fulfil any obligation on behalf of the state.

Management of debtors

11.1 Application of these *Treasury Regulations*

- 11.1.1 The *Treasury Regulations* in this chapter apply to all debts accruing to an institution and include any amount owing to or receivable by the institution, such as **[accounts]** invoices for charges for goods or services, fees or fines outstanding.

11.2 Responsibility for management of debtors [Section 38(1)(c)(i) and (d) of the PFMA]

- 11.2.1 The accounting officer of an institution must take effective and appropriate steps to collect all money due to the institution including, as necessary—
- (a) maintenance of proper accounts and records for all debtors, including amounts received in part payment; and
 - (b) referral of a matter to the State Attorney, where economical, to consider a legal demand and possible legal proceedings in a court of law.

11.3 Recovery of debts by instalments

- 11.3.1 Unless otherwise determined by law or agreement, debts owing to the state may, at the discretion of the accounting officer of the institution, be recovered in instalments.

11.4 Writing off of debts owing to the state [Sections 76(1)(e) and 76(4)(a) of the PFMA]

- 11.4.1 An accounting officer must only write off a debt if he or she is satisfied [Any debt written off by the accounting officer must] that—
- (a) [only be written off after] all reasonable steps have been taken to recover the debt, in accordance with a policy determined by the accounting officer, **[and]**
 - (b) [the accounting officer] he or she has convinced himself/herself that—
 - (i) recovery of the debt would be uneconomical;
 - (ii) recovery would cause undue hardship to the debtor or his/her dependants; and
 - (iii) it would be to the advantage of the state to effect a settlement of its claim or to waive the claim.
- 11.4.2 All debts written off must be disclosed in the annual financial statements, indicating the policy in terms of which the debt was written off.

11.5 Interest payable on debts to the state [Section 80 of the PFMA]

- 11.5.1 Interest must be charged on all debts to the state at the interest rate provided for in terms of section 80 of the Act.

12

Management of losses and claims

12.1 General

- 12.1.1 Subject to the provisions of these *Treasury Regulations*, or any other legislation or agreement, the state will bear its own damages and accident risks and be responsible for all claims and losses of state property where these arise from state activities by an official who is liable in law and who is or was employed by an institution to which these *Treasury Regulations* apply.
- 12.1.2 Notwithstanding the above paragraph, the accounting officer of an institution may (if deemed economical and based on a risk assessment) insure motor vehicles or such other movable assets determined by the relevant treasury, but the insurance premium cost may not exceed R250 000 a year on that vote, unless otherwise approved by the relevant treasury.

12.2 Claims against the state through acts or omissions [Section 76(1)(h) of the PFMA]

- 12.2.1 An institution [may] must accept liability for any loss or damage suffered by another person, as for a claim against the state, which arose from an act or omission of an official, provided—
- (a) the act or omission was the cause of the loss, damage or reason for the claim;
 - (b) the act or omission did not involve the use of alcohol or drugs;
 - (c) the official acted in the course of his or her employment;
 - (d) the official did not fail to comply with or ignore standing instructions, of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim, excluding losses and damages arising from the use of a state vehicle; and
 - (e) in the case of a loss, damage or claim arising from the use of a state vehicle, the official—
 - (i) used the vehicle with authorisation for official purposes;
 - (ii) possesses a valid driver's licence or other appropriate licence;
 - (iii) used the vehicle in the interest of the state;
 - (iv) did not allow unauthorised persons to handle the vehicle;
 - (v) did not deviate materially from the official journey or route without prior authorisation; and
 - (vi) did not, without prior consultation with the State Attorney, make an admission that was detrimental to the state.
- 12.2.2 If in doubt, the accounting officer of the institution must consult the State Attorney on questions of law on the implementation of paragraph 12.2.1.
- 12.2.3 Except when an institution has accepted liability in terms of paragraph 12.2.1, an amount paid by the institution for losses, damages or claims arising from an act or omission of an

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official must be recovered from the official concerned if the official is liable in law to compensate the institution.

- 12.2.4 The State Attorney may only obligate the funds of an institution with the prior written approval of the accounting officer.

12.3 Claims by the state against other persons

- 12.3.1 If the state suffers a loss or damage and the other person denies liability, the accounting officer must, if deemed economical, refer the matter to the State Attorney for legal action.

12.4 Claims by officials against the state

- 12.4.1 If an official sustains a loss or damage in the execution of official duties and is not compensated, the accounting officer may make good the loss or damage provided that the official can prove such loss or damage.

12.5 Losses or damages through criminal acts or omissions [Section 76(1)(f) of the PFMA]

- 12.5.1 When it appears that the state has suffered losses or damages through criminal acts or possible criminal acts, the matter must be reported, in writing, to the accounting officer and the South African Police Service. In the case of omissions, the matter must be reported, in writing, to the accounting officer. Whether or not the person is still in the employ of the state, the accounting officer must recover the value of the loss or damage from the person responsible.

- 12.5.2 The accounting officer may write off and disclose losses or damages arising from criminal acts or omissions if, after a thorough investigation, it is found that the loss or damage is irrecoverable.

- 12.5.3 In the event of movable assets being written off, appropriate notations must be made in the asset register.

12.6 Losses and damages through *vis major* and other unavoidable causes [Section 76(1)(e) of the PFMA]

- 12.6.1 The accounting officer may write off losses and damages that result from *vis major* and other unavoidable causes.

12.7 Recovery of losses and damages [Sections 76(1)(b) and 76(4)(a) of the PFMA]

- 12.7.1 Losses or damages suffered by an institution because of an act committed or omitted by an official, must be recovered from such an official if he or she is liable in law.

- 12.7.2 The accounting officer must determine the amount of the loss or damage and, in writing, request that official to pay the amount within 30 days or in reasonable instalments. If the official fails to comply with the request, the matter must be handed to the State Attorney for the recovery of the loss or damage.

- 12.7.3 A claim against an official **[may] must** be waived if the conditions in paragraph 12.2.1(b) to (e) are met.

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12.7.4 If in doubt, the accounting officer of the institution must consult the State Attorney on questions of law in the implementation of paragraphs 12.7.1 and 12.7.3.

13

Loans, guarantees and other commitments

13.1 General [Section 66 of the PFMA]

- 13.1.1 The executive authority of a provincial department may not issue a guarantee, security or indemnity that may bind the provincial revenue fund, except with the prior written approval of the relevant MEC for finance.
- 13.1.2 The accounting officer of a department must ensure that no official in that department or any other person borrows money on behalf of that department, or issues an unauthorised guarantee, security or indemnity. The accounting officer must ensure that misconduct and criminal proceedings are instituted against any person responsible for transgressions with regard to borrowings, guarantees, securities or indemnities.
- 13.1.3 Should the accounting officer be responsible for transgressions with regard to borrowings, guarantees, securities or indemnities, the treasury must initiate misconduct and criminal proceedings against the accounting officer as soon as it becomes aware of the transgression.
- 13.1.4 The accounting officer must report on all contingent liabilities of his or her department in its annual report.
- 13.1.5 The provisions in this chapter do not preclude the use of credit cards, fleet management cards or other credit facilities repayable within 30 days from the date of statement.

13.2 Provinces

- 13.2.1 The MEC for finance may raise funds during a financial year for bridging purposes. All bridging finance raised during a financial year must be repaid within 30 days after the end of the financial year.

14

Money and property held in trust

14.1 General

- 14.1.1 The provisions of Chapter 15 are not applicable to the management of trust money.

14.2 Responsibility for trust money and property [Section 76(1)(c) of the PFMA]

- 14.2.1 For purposes of these *Treasury Regulations*, trust money or property is money or property that does not belong to the State and which is held by an institution on behalf of other persons or entities in terms of a deed of trust or equivalent instrument that details the specific purposes for which it may be used.
- 14.2.2 The accounting officer, through the chief financial officer or a duly authorised agent, is responsible for the safekeeping and proper use of trust money and property, in accordance with the relevant deed of trust or equivalent instrument.
- 14.2.3 The institution, or its duly authorised agent, may charge a fee for the administration of a trust account at rates approved by the board of trustees or, in its absence, as agreed with the trustee. [by the relevant treasury.] Such fees shall be payable from the trust account and are revenue accruing to the relevant revenue fund.

14.3 Trust money must be kept in a trust account

- 14.3.1 The accounting officer must, for each separate portion of trust money—
- open and maintain a separate bank account, called a trust account;
 - assign the trust account a name or title that clearly identifies the account;
 - maintain separate accounting records for each trust account, of the transactions, including investment transactions, undertaken; and
 - annually prepare separate financial statements in accordance with paragraph 18.4.

14.4 Investment of trust money

- 14.4.1 The accounting officer may, provided that it does not conflict with the terms of the trust arrangement, invest any trust money on such terms and conditions as may seem appropriate—
- on deposit with any bank within or outside South Africa as approved by the [national] National Treasury;
 - in public securities issued by the government; or
 - in other securities approved by the [national] National Treasury.
- 14.4.2 The proceeds of an investment, including interest and realised capital gains, and all money received from the realisation, sale or conversion of securities, shall be treated as money of the trust on whose behalf the money was invested.

PART 6

Frameworks

15

Banking, cash management and investment

- 15.1 Control of the national and provincial revenue funds** [Sections 11 and 21 of the PFMA]
- 15.1.1 Each treasury is responsible for the effective and efficient management of its revenue fund.
- 15.1.2 Each treasury must ensure that **[the] its revenue fund [at all times]** has sufficient money at all times for appropriated expenditure and direct charges to meet the progressive cash flow requirements.
- 15.1.3 Each revenue fund consists, at any point in time, of all cash balances of the fund, derived from the relevant treasury's operating, investing and financing activities.
- 15.2 Bank account configuration** [Sections 7 and 21 of the PFMA]
- 15.2.1 The bank account configuration for the National Revenue Fund comprises an Exchequer bank account, a Paymaster-General bank account with the South African Reserve Bank, the four tax and loan accounts with commercial banks, and any other bank account opened to facilitate the management of the National Revenue Fund. The **[national] National Treasury** may open additional accounts on such terms and conditions as it may determine.
- 15.2.2 Each provincial revenue fund must have a bank account configuration that consists of at least an Exchequer bank account and a Paymaster-General bank account, opened with a commercial bank.
- 15.2.3 Each head of a provincial treasury must nominate one bank account under the control of the provincial treasury, and which is part of the Provincial Revenue Fund as the account to which all transfers from national departments must be deposited. This is to be certified to the National Treasury by 1 April 2001.
- 15.2.[3]4 If the accounting for a department necessitates a separate bank account, the relevant treasury may approve one subaccount within the Paymaster-General account of the relevant revenue fund. Such subaccounts remain an integral part of the bank account configuration of the relevant revenue fund.
- 15.3 Deposits into the revenue funds** [Sections 13 and 22 of the PFMA]
- 15.3.1 In terms of sections 11(3) and 21(2) of the Act, money is paid into a revenue fund by depositing it into a bank account in accordance with the configuration requirements prescribed above.
- 15.3.2 Money deposited into the Paymaster-General account must immediately be available to the relevant treasury for funding expenditure or investment according to its central cash management responsibilities.

*Treasury Regulations: PFMA***15.4 Responsibilities of the South African Revenue Service [Section 12 of the PFMA]**

- 15.4.1 The South African Revenue Service must supply the relevant treasury with an annual revenue projection no later than the 10th working day of March preceding the start of the financial year. It must also submit an updated monthly revenue projection for the remainder of the year, no later than the 15th working day of each month.
- 15.4.2 For purposes of section 12 of the Act, the South African Revenue Service must implement measures to ensure that all taxes, levies, duties, fees and other money due to and collected by it for a revenue fund are accounted for and deposited daily into the relevant fund. The relevant treasury must be informed daily of such revenue and its standard revenue classifications.

15.5 Responsibilities of departments [Sections 13 and 22 of the PFMA]

- 15.5.1 All revenue received by a department must be paid daily into its Paymaster-General account or, for amounts less than R500, as soon as practicable, but at least by the last working day of the month. [This revenue must be paid into the relevant revenue fund by the last working day of the month.]
- 15.5.2 No provincial department may receive any transfer from a national department or public entity directly; such funds must be deposited into the nominated banking account of the province as required by paragraph 15.2.3.
- 15.5.2]3 Money collected by a department, which is not classified as revenue, must be paid into the department's Paymaster-General account and accounted for in its ledger. This includes money received for agency services provided to another department.

15.6 Withdrawals from and investments in revenue funds [Sections 7(4) and 24(3) of the PFMA]

- 15.6.1 Provincial treasuries may, in accordance with section 24 of the Act, temporarily invest surplus money in the provincial revenue fund in an account in South Africa, approved as part of the bank account configuration of the fund.

15.7 Requisitioning of funds by departments, legislatures and Parliament

- 15.7.1 When requesting the transfer of appropriated funds, accounting officers of national departments, provincial legislatures and Parliament must submit such requisitions to the [national] National Treasury, in accordance with approved cash flow estimates, at least four full working days before the end of the month preceding the month in which the funds are required. Provincial treasuries may determine their own time-scales in this regard.
- 15.7.2 Provincial treasuries will receive their grants from the National Revenue Fund in accordance with the payment schedule determined in terms of the annual Division of Revenue Act.

15.8 Surrender of voted surplus funds

- 15.8.1 At the end of each financial year, and after the books of account of an institution, including Parliament and provincial legislatures [department] have been closed, the

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accounting officer must surrender to the relevant treasury any unexpended voted money, for re-depositing into the Exchequer bank account of the relevant revenue fund.

15.9 Accounting and reporting

15.9.1 Each treasury must account daily for the cash movements of all bank accounts in the books of its revenue fund.

[15.9.2 Every month, each treasury must report on its revenue fund to the Minister or MEC for finance.]

15.10 Banking and cash management**15.10.1 General [Sections 7 and 21 of the PFMA]**

15.10.1.1 The accounting officer[, through the chief financial officer,] is responsible for establishing systems, procedures, processes and training and awareness programmes to ensure efficient and effective banking and cash management.

15.10.1.2 For purposes of these *Treasury Regulations*, sound cash management includes—

- (a) collecting revenue when it is due and banking it promptly;
- (b) making payments, including transfers to other levels of government and non-government entities, no earlier than necessary, with due regard for efficient, effective and economical programme delivery and the government's normal terms for account payments;
- (c) avoiding prepayments for goods or services (i.e. payments in advance of the receipt of the goods or services), unless required by the contractual arrangements with the supplier;
- (d) accepting discounts to effect early payment only when the payment has been included in the monthly cash flow estimates provided to the relevant treasury;
- (e) pursuing debtors with appropriate sensitivity and rigour to ensure that amounts receivable by the government are collected and banked promptly;
- (f) accurately forecasting the institution's cash flow requirements so that the national Treasury can optimise its central cash management responsibilities on behalf of the government;
- (g) timing the in- and outflow of cash;
- (h) recognising the time value of money, i.e. economically, efficiently and effectively managing cash; and
- (i) taking any other action that avoids locking up money unnecessarily and inefficiently, such as managing inventories to the minimum level necessary for efficient and effective programme delivery, and selling surplus or underutilised assets.]

[15.10.2 Systems, accounting records, procedures and monitoring]

15.10.2.1 The chief financial officer must ensure that the institution's systems, records and statements of procedures can meet the purposes of sound cash management.

15.10.2.2 The chief financial officer must monitor the institution's cash management performance on a regular basis and report to the accounting officer, in writing, at least monthly.]

*Treasury Regulations: PFMA***15.10.[3]2 Banking arrangements [Section 7(2) of the PFMA]**

15.10.[3]2.1 Institutions may not open a bank account without the written approval of the relevant treasury **[and previous approvals continue to apply unless revoked.]** Previous approvals will cease after 30 April 2001.

15.10.2.2 National Treasury will negotiate with the approved Clearing banks for a banking service on an annual basis.

15.11 Private money, private bank accounts and cashing private cheques

15.11.1 Private money may not be deposited into an official bank account, except in accordance with the provisions relating to money held in trust for other persons or bodies, nor may state money be paid into a private bank account.

15.11.2 The safekeeping of private money or personal possessions in a state safe or strongroom is prohibited. However, an accounting officer or an official authorised by the accounting officer may approve arrangements for safeguarding personal effects reasonably held on official premises in the course of official duty (e.g. by providing lockable rooms for staff).

15.11.3 State money may not be used to cash private cheques.

**15.12 Warrant vouchers, cheques and electronic payments
[Section 76(2)(h) of the PFMA]**

15.12.1 Accounting officers of departments must assign authority in writing to officials to approve warrant vouchers, cheques or electronic payments.

15.12.2 Only authorised officials may sign hand-drawn vouchers or cheques and must initial the counterfoils.

15.12.3 All payments in excess of R[10]2 000 must be effected electronically unless otherwise approved by the relevant treasury.

15.12.4 All warrant vouchers and cheques **[must have at least a]** should preferably be crossed [ing of] "NOT [NEGOTIABLE] TRANSFERABLE" between parallel lines. The cancellation of **[such a]** crossings is not permitted.

15.12.5 When an issued warrant voucher or cheque is lost, stolen or damaged, an instruction to stop payment must immediately be issued to the responsible bank. Once confirmation has been received that the cheque was stopped, the transaction must be reversed and a new warrant voucher or cheque issued and accounted for.

16

Public-private partnerships

16.1 Definitions

“affordable”, in relation to a public-private partnership (PPP) agreement, means that the financial commitments to be incurred by an institution in terms of the agreement can be met by funds—

- (a) designated within the institution’s existing budget for the institutional function to which the agreement relates; and
- (b) destined for the institution in accordance with the relevant treasury’s future budgetary projections for the institution.

“institutional function” means—

- (a) a service, task, assignment or other function that an institution performs—
 - (i) in the public interest; or
 - (ii) on behalf of the public service generally; or
- (b) any part or component of, or in support of, such a service, task, assignment or other function;
- (c) but excludes a service, task, assignment or other function that is not of an ongoing nature.

“net cost”, in relation to an institutional function, means the full accounting cost of performing the function, less any charges or fees collected from users and from consumers for services provided to them in performing the function.

“private party”, in relation to a PPP agreement, means a party to a PPP agreement other than—

- (a) an institution to which the Act applies;
- (b) a municipality or an enterprise or other entity controlled by one or more municipalities; or
- (c) the accounting officer, accounting authority or other person or body acting on behalf of an institution, municipality, enterprise or entity referred to in paragraph (a) or (b).

“public-private partnership agreement” means an agreement between an institution and a private party in terms of which—

- (a) the private party undertakes to perform an institutional function on behalf of the institution for a specified or indefinite time;
- (b) the private party receives a benefit for performing the function, either by way of:
 - (i) compensation from a revenue fund;
 - (ii) charges or fees collected by the private party from users or customers of a service provided to them; or
 - (iii) a combination of such compensation and such charges or fees;
- (c) the private party is generally liable for the risks arising from the performance of the function, subject to paragraph 16.13.1; and
- (d) depending on the specifics of the agreement, state facilities, equipment or other state resources may be transferred or made available to the private party.

The definition excludes an agreement or category of agreements exempted by the [national] National Treasury in terms of clause 16.12.

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“public sector comparator” means an estimate of the net cost of performing an institutional function in accordance with methods employed and subject to conditions prevailing at the institution concerned.

“value for money” means that the provision of the institutional function by a private party in terms of the public-private partnership agreement results in a net benefit to the institution, defined in terms of cost, price, quality, quantity, or risk transfer, or a combination thereof.

[16.2 General responsibilities of accounting officers]

16.2.1 The accounting officer is responsible for ensuring that the institution complies with these *Treasury Regulations* and, to this end, for implementing systems and procedures that—

- (a) are open, competitive and transparent; and
- (b) provide safeguards against favouritism, improper practices and opportunities for fraud, theft and corruption.]

16.[3]2 Exclusive competency of accounting officers

16.[3]2.1 Only an accounting officer may enter into a PPP agreement on behalf of the institution.

16.[4]3 Treasury approval

16.[4]3.1 The accounting officer may not enter into a PPP agreement without the prior written approval of—

- (a) the [national] National Treasury; or
- (b) the relevant provincial treasury, if it is a provincial institution and the [national] National Treasury has, in terms of section 10(1)(b) of the Act, delegated the appropriate powers to the provincial treasury.

16.[4]3.2 The relevant treasury may give such approval only if it is satisfied that the proposed PPP agreement will—

- (a) provide value for money;
- (b) be affordable for the institution; and
- (c) transfer appropriate technical, operational and financial risk to the private party.

16.[4]3.3 When a provincial treasury gives such approval, it must exercise its delegated powers subject to any limitations and qualifications in terms of the [national] National Treasury's delegation.

16.[5]4 Feasibility analysis

16.[5]4.1 To determine whether a proposed PPP agreement is in the best interests of an institution, the accounting officer must prepare a feasibility analysis that—

- (a) explains the strategic and operational benefits of the PPP agreement for the institution in terms of the institution's strategic objectives and government policy;
- (b) describes in specific terms—
 - (i) the nature of the institutional function concerned;
 - (ii) the extent to which this function, both legally and by nature, can be performed by a private party in terms of a PPP agreement; and

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- (iii) what other forms of PPP agreement were considered, and how the proposed form was selected;
- (c) assesses whether the agreement will—
- (i) provide value for money;
 - (ii) be affordable for the institution; and
 - (iii) transfer appropriate technical, operational and financial risk to the private party.
- (d) includes any relevant information, figures and the economic criteria used to justify these assessments; and
- (e) explains the capacity of the institution to effectively enforce the agreement, including to monitor and regulate implementation of and performance in terms of the agreement.

16.[5]4.2 If an institution lacks the expertise to assess value for money and affordability or to interpret any PPP agreement offered to it by a private party, the accounting officer of the institution—

- (a) must inform the relevant treasury accordingly; and
- (b) if the relevant treasury so requests, must appoint a specialist consultant for this purpose.

16.[6]5 Submission to obtain treasury approval

16.[6]5.1 If the feasibility analysis indicates that a PPP agreement will be in the best interests of the institution, and the institution intends to procure the agreement, the accounting officer must apply for approval from the relevant treasury in terms of clause 16.4.

16.[6]5.2 The application must be accompanied by the feasibility analysis, submitted in the following format—

- (a) Part I should contain a brief “sector needs analysis” and priority ranking of the PPP agreement being proposed on the basis of this analysis;
- (b) Part II should demonstrate value for money, affordability, and risk transfer; and
- (c) Part III should contain the main terms of the proposed agreement to be signed with the private party and the institutional arrangements for monitoring and enforcing these terms.

16.[7]6 Procurement [Section 76(4) of the PFMA]

16.[7]6.1 An institution may not proceed with the procurement of a PPP agreement unless it has obtained written treasury approval in terms of clause 16.4.

16.[7]6.2 A PPP agreement must be procured in accordance with applicable procurement legislation.

16.[7]6.3 The procurement procedure must include—

- (a) an open and transparent pre-qualification process;
- (b) a competitive bidding process in which only pre-qualified organisations may participate; and
- (c) criteria for the evaluation of bids to identify the bid that represents the best value for money.

16.[7]6.4 The procurement procedure may include—

- (a) a preference for categories of bidders, such as persons disadvantaged by unfair discrimination, provided that this does not compromise the value for money requirement; and

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- (b) incentives for recognising and rewarding genuine innovators in the case of unsolicited proposals, provided that these incentives do not compromise the competitive bidding process.

16.[8]7 Contracting public-private partnership agreements

16.[8]7.1 Before the accounting officer of an institution enters into a PPP agreement, he or she must—

- (a) obtain relevant treasury [approval] agreement to future [for all] budgetary commitments; and
- (b) ensure that the financial commitments in terms of the agreement:
 - (i) are denominated in rand; and
 - (ii) will not be affected by fluctuations in the value of the rand against other currencies.

16.[9]8 Management of public-private partnership agreements

16.[9]8.1 The accounting officer is responsible for ensuring that a PPP agreement is properly enforced, and must establish mechanisms and procedures for—

- (a) monitoring and regulating the implementation of, and performance in terms of, the agreement;
- (b) liaising with the private party;
- (c) resolving disputes and differences with the private party; and
- (d) generally overseeing the day-to-day management of the agreement.

16.[9]8.2 A PPP agreement does not divest the accounting officer of the responsibility for ensuring that the relevant institutional function is effectively and efficiently performed in the public interest.

16.[10]9 Amendment of public-private partnership agreements

16.[10]9.1 Only the accounting officer may enter into an agreement to amend a PPP agreement.

16.[10]9.2 Written approval of the relevant treasury is required for material amendments of PPP agreements.

16.[10]9.3 The relevant treasury will approve an amendment only if it is satisfied that the amended PPP agreement will—

- (a) provide value for money;
- (b) be affordable for the institution; and
- (c) transfer appropriate technical, operational and financial risk to the private party.

16.[10]9.4 The accounting officer must substantially follow the procedure prescribed by clauses 16.[5]4 and 16.[6]5 for obtaining treasury approval.

16.[11]10 Certain agreements not binding on the state

16.[11]10.1 A PPP agreement or an agreement amending a PPP agreement does not bind the state if the agreement was entered into on behalf of an institution—

- (a) by a person other than the accounting officer of the institution; or
- (b) without the approval of the [national] National Treasury.

[16.12 Exemptions

16.12.1 The national Treasury may exempt from the application of these *Treasury Regulations* any agreement or category of agreements that fall within the definition of “public-private partnership agreement”, if these are of a nature or have a monetary value deemed not to warrant treasury control.]

16.[13]11 General

16.[13]11.1 An agreement between an institution and a private party for the latter to perform an institutional function without accepting the significant risks is not a PPP agreement and must be dealt with as a borrowing transaction in terms of the appropriate legislation.

PART 7

Accounting and Reporting Requirements

17

Basic accounting records and related issues

17.1 Use of [control] suspense accounts [Section 40(1)(a) of the PFMA]

- 17.1.1 All the transactions of an institution must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.
- 17.1.2 Should it be necessary, in exceptional cases, to account for revenue and expenditure transactions in a control account because the classification has not been resolved, the accounting officer, or his or her designate, must ensure that—
- (a) the sources of the transactions are readily identifiable;
 - (b) amounts included in the control accounts are, each month, cleared and correctly allocated to the relevant cost centres;
 - (c) monthly reconciliations are performed to confirm the balance of each account; and
 - (d) reports are provided to the [chief financial officer] accounting officer about uncleared items on a monthly basis.
- 17.1.3 In each months section 40(4) report, the accounting officer must certify that the forecast/projection for the remainder of the financial year includes adequate allowance for all amounts not yet cleared from suspense accounts.

17.2 Availability of financial information [Section 40(1)(a) of the PFMA]

- 17.2.1 Accounting officers of institutions must, subject to the provisions of the National Archives of South Africa Act, 1996 (No. 43 of 1996), retain *all* financial information in its original form, as follows—
- (a) information relating to one financial year – for one year after the audit report for the financial year in question has been tabled in Parliament or the provincial legislature; or
 - (b) information relating to more than one financial year – for one year after the date of the audit report for the last of the financial years to which the information relates.
- 17.2.2 After the expiry of the above retention periods, the information may, if required, be secured in an alternative form that ensures the integrity and reliability of the data and ensures that the information can be reproduced, if necessary, as permissible evidence in a court of law.
- 17.2.3 Irrespective of paragraph 17.2.1, the following standards apply to the retention of certain types of record—

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Type of record	Number of years after which records can be disposed of
General ledger and cash books or similar records	15
Main transaction summary records, including general journals and transaction summaries	10
Internal audit reports	
System appraisals	
Primary evidentiary records, including copies of forms issued for value, vouchers to support payments made, pay sheets, returned warrant vouchers or cheques, invoices and similar records associated with the receipt or payment of money	5
Subsidiary ledgers, including inventory cards and records relating to assets no longer held or liabilities that have been discharged	
Supplementary accounting records, including, for example, cash register strips, bank statements and time sheets	5
General and incidental source documents not included above, including stock issue and receivable notes, copies of official orders (other than the copies used to substantiate payments or for unperformed contracts), bank deposit books and post registers	5

- 17.2.4 When financial information is required as evidence in proceedings before a court, Parliament, a provincial legislature, an official inquiry or otherwise, or for purposes of an audit, it must be secured in its then current form until no longer required, even if the national Archivist has authorised its disposal.

17.3 Changes to financial systems

- 17.3.1 Institutions may not amend existing or institute new computerised systems that will affect financial administration without **[first consulting]** the prior approval of the [national] National Treasury.

18

Monthly and annual reports

18.1 Cash flow [Section 40(4)(a) of the PFMA]

- 18.1.1 The accounting officer must annually submit to the relevant treasury a breakdown of anticipated revenue and expenditure in the format determined by the [national] National Treasury, no later than the last working day of February preceding the financial year to which it relates.
- 18.1.2 Provincial treasuries must submit to the [national] National Treasury by the 15th working day of [February] March, projections of their expenditure, revenue and borrowings, in a format determined by the [national] National Treasury.
- 18.1.3 Once such amounts have been approved, modified as necessary after consultation with the relevant treasury, the accounting officer may not draw from the revenue fund more than the amount approved for a month, without prior written approval from the relevant treasury.
- 18.1.4 If the accounting officer deems it necessary to adjust the approved projections, the proposed adjustments must be motivated to the relevant treasury for evaluation against the availability of funds in the Exchequer.

18.2 Monthly reports [Sections 32(2) and 40(4)(b) and (c) of the PFMA]

- 18.2.1 In terms of subsections 40(4)(b) and (c) of the Act, the accounting officer must submit to the relevant treasury and executive authority within 15 days of the end of each month, information on—
 - (a) the actual revenue and expenditure for that month, in the format determined by the [national] National Treasury;
 - (b) estimated expenditure against any transfers to public or private entities, where such transfers are for departmental programmes;
 - (c) on requirements in terms of the Annual Division of Revenue Act, including expenditure information on all conditional grants up to the end of that month; Provided that national accounting officers responsible for such grants may, with the approval of the treasury, submit these reports on the 20th day after the end of each month;
 - (b)d) projections of anticipated expenditure and revenue for the remainder of the current financial year in the format determined by the [national] National Treasury; and
 - (c)e) any material variances and a summary of [actions] appropriate steps to be taken to ensure that the projected expenditure and revenue remain within the budget.
- 18.2.2 A provincial treasury must submit a statement to the [national] National Treasury on actual revenue and expenditure with regard to its revenue fund before the 22nd day of each month in the format determined by the [national] National Treasury. Such a statement must include a certificate to the effect that the information supplied has been verified by the head official of the provincial treasury. The information supplied must be

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based on information submitted to the provincial treasury by provincial accounting officers in terms of section 40(4)(c) of the Act.

[18.3 Quarterly reports

18.3.1 Information on division of revenue grants must be reported in terms the annual Division of Revenue Act.

18.3.2 The accounting officer effecting transfer payments must submit a report to the relevant treasury within 15 days after every quarter, outlining per organisation all the funds transferred up to the end of that quarter.]

18.[4]3 Annual financial statements [Section[s] 40(1)(b) [and 90(3)(3)] of the PFMA]

18.[4]3.1 For the financial year ending 31 March 2001, the following reporting standards [comprise generally recognised accounting practice and] must be adhered to, unless otherwise approved by the [national] National Treasury—

Reporting entity	Generally recognised accounting practice
National and provincial revenue funds	<p>Annual financial statements must consist of—</p> <ul style="list-style-type: none"> (a) a statement of liabilities and financially related assets; (b) an income statement; (c) a cash flow statement; (d) notes to the annual financial statements; (e) a report on the financial position of and performance by the Treasury; and (f) such other statements as may be determined by the Accounting Standards Board. <p>The annual financial statements must be prepared on a cash basis and must be accompanied by the audit opinion of the Auditor-General.</p> <p>The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the relevant revenue fund.</p>
Departments Parliament Provincial legislatures	<p>Annual financial statements must consist of—</p> <ul style="list-style-type: none"> (a) a balance sheet; (b) an income statement; (c) a cash flow statement; (d) notes to the annual financial statements; and (e) such other statements as may be determined by the Accounting Standards Board. <p>The statements must be prepared on a cash basis and be accompanied by the audit opinion of the Auditor-General.</p> <p>The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the institution.</p>
Trading entities Constitutional institutions	<p>Annual financial statements must consist of—</p> <ul style="list-style-type: none"> (a) a balance sheet; (b) an income statement; (c) a cash flow statement; (d) notes to the annual financial statements; and (e) such other statements as may be determined by the Accounting Standards Board.

Part 7: Accounting and reporting requirements

The annual financial statements must be accompanied by the audit opinion of the Auditor-General, for the relevant auditor (in the case of public entities).

[Unless otherwise approved by the national Treasury, The annual financial statements must, [in] conform [ity] with [G]generally [A]accepted [A]accounting [P]practice [issued by the South African Institute of Chartered Accountants.] These statements must fairly represent the financial position, financial performance and cash flows of the institution at the end of the financial year concerned.

The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the institution.

18.[5]4 Contents of annual reports [Section 40(1)(d) of the PFMA and Section 19 of DORA]

18.[5]4.1 In preparing the annual report of an institution, the accounting officer must—

- (a) in the case of a department or trading entity, comply with the requirements prescribed in Chapter 1, Part III J of the *Public Service Regulations*, [1999]2001;
- (b) include, after 1 April 2002, information about the institution's efficiency, economy and effectiveness in delivering programmes and achieving its objectives and outcomes against the measures and indicators set out in any strategic plan for the year under consideration;
- (c) include information on the measurement of the institution's performance for the past financial year as required by Section [40(1)(d)(i)] 40(3)(a) of the Act;
- (d) include information on transfer payments per organisation for the entire financial year as well as a report on compliance with Section 38(1)(j) of the Act;
- (e) include all information required in terms of the Annual Division of Revenue Act;
- ([e]f) include any additional information required by Parliament or the provincial legislature;
- ([f]g) report on the use of foreign aid assistance, detailing the source and intended use of the assistance (including the value of any aid-in-kind in rand), performance information on the institution's use of the assistance, and any pending applications for assistance; and
- ([g]h) a report from the audit committee commenting on the effectiveness of internal control in the institution, as required by paragraph [4.2.14] 3.1.10.

18.[6]5 Additional annual reporting requirements for departments controlling trading entities and public entities

18.[6]5.1 A department's annual report must include a list of trading and/or public entities controlled by the department, together with—

- (a) an indication of the legislation under which the trading and/or public entity was established;
- (b) a statement of the functions of each trading and/or public entity; [and]
- (c) the accountability arrangements established between the accounting officer and the management of the trading and/or public entity; and
- (d) a report of expenditure against transfers to public entities, where such funds were for the performance of a function or programme that is the responsibility of the department.

PART 8

Miscellaneous

19

Trading entities

19.1 Definitions [Section 76(4)(b) of the PFMA]

“head of the trading entity” refers to either–

- (a) the accounting officer appointed in terms of section 36(3)(b) of the Act; or
- (b) an official assigned to head the trading entity in terms of section 44(1)(a) of the Act.

19.2 General

- 19.2.1 For purposes of these *Treasury Regulations*, a trading entity is regarded as an entity operating within the administration of a department. All obligations on departments in these *Treasury Regulations* apply to trading entities, unless the context indicates otherwise.
- 19.2.2 The accounting officer of the department operating a trading entity must ensure that the head of the trading entity complies with the Act and these *Treasury Regulations*.
- 19.2.3 Trading entities allowed to open bank accounts may not borrow for bridging purposes and may not run overdrafts on their banking accounts unless approved otherwise in writing by both the accounting officer of the department and the relevant treasury.

19.3 Policy and reporting framework

- 19.3.1 The accounting officer of a department operating a trading entity must formulate a policy and reporting framework for the head of the trading entity.
- 19.3.2 The head of the trading entity is accountable to the accounting officer of the department operating that trading entity and must forward all reports or approvals required in the Act via the accounting officer of the department.

19.4 Establishment

- 19.4.1 Provincial treasuries may only establish a trading entity after consultation with the [national] National Treasury.

19.5 Capital requirements

- 19.5.1 The initial capital requirements of the trading entity must be determined in consultation with the relevant treasury, and increases in such requirements are also subject to treasury approval.
- 19.5.2 In determining charges for goods or services, the head of the trading entity must aim to recover the full cost of providing the goods or services, unless the relevant treasury approves lower charges.
- 19.5.3 The head must review rates for user charges at least annually before the budget, and any tariff increases are subject to approval by the relevant treasury.

19.6 Disposal of assets

- 19.6.1 When assets are disposed of other than in the ordinary course of the business of the trading entity, the relevant treasury must approve the transaction.

19.7 Surrender of surplus funds

- 19.7.1 An accounting officer of a department operating a trading entity must, at the end of each financial year and after books of account have been closed, declare any surplus or deficit to the relevant treasury. The treasury may apply such surplus to reduce any proposed allocation to the trading entity, or require that all or part of it be redeposited in the Exchequer bank account.
- 19.7.2 Where a trading entity suffers a deficit in trading, the accounting officer of the department operating the trading entity must investigate whether—
- (a) the head of the trading entity **[mentioned]** reported any foreseeable potential over-expenditure in **[his or her]** monthly reports;
 - (b) appropriate steps were taken to address the deficit; and
 - (c) financial misconduct and criminal sanctions should be instituted if (a) and (b) above were not adhered to.

19.8 Financial reporting

- 19.8.1 The annual financial statements in respect of a trading entity must be compiled in accordance with paragraph 18.4.

20

Commissions and Committees of Inquiry

20.1 Definitions

"commission" means a commission of inquiry appointed by the President or Premier of a province to investigate a matter of public concern, and does not include any permanent commission, board, council, committee or similar body, whether appointed pursuant to any law or otherwise.

"committee" means a committee of inquiry appointed by the executive authority and includes an interdepartmental committee of inquiry, but does not include any permanent commission, board, council, committee or similar body, whether appointed pursuant to any law or otherwise.

"non-official member" means a person who is not an official member.

"official member" means a person as defined in section 8(1) of the Public Service Act, 1994 (Proclamation No. R.103 of 1994), a member of Parliament or a judge, as well as a person employed by a body that was established by an Act of Parliament and that receives its funds wholly, or in part, from the National Revenue Fund, where such a person represents the department or body where he or she is employed as a member of a commission or committee.

20.2 Remuneration of members

20.2.1 An official member must receive no additional remuneration and must receive subsistence and other allowances in accordance with his or her conditions of service.

20.2.2 A non-official member must be remunerated according to scales approved by the **[national] National Treasury**.

20.2.3 Should the accounting officer deem it necessary, **[after taking into account market-related rates, the] he or she [accounting officer,]** in consultation with the executive authority, can determine such remuneration **[packages after consulting the relevant Treasury,]** provided that—

- (a) the terms of reference are properly defined in terms of time and cost; and
- (b) the tariffs are reasonable compared to current market tariffs. **[; and]**
- [(c) funds are available for this purpose.]**

20.3 Services rendered by members during private time

20.3.1 Should the chairperson request a non-official member of a commission or committee to render services in his or her private time, other than the normal preparations for meetings, the person may be paid an honorarium (within the budget), as determined by the accounting officer and the executive authority. In the case of official members, section 30 of the Public Service Act, 1994 must be complied with.

21

Gifts, donations and sponsorships

21.1 Granting of gifts, donations and sponsorships by the state [Section 76(1)(l) of the PFMA]

- 21.1.1 The relevant treasury may approve gifts, donations and sponsorships of state money and other movable property in the interest of the state, provided that when such cash amounts exceed R100 000, funds must first be voted by Parliament or the provincial legislature.
- 21.1.2 Accounting officers need not refer to the relevant treasury when gifts, donations and sponsorships in the interest of the state do not exceed R100 000 per event.

21.2 Acceptance of gifts, donations and sponsorships to the state

- 21.2.1 The accounting officer may approve the acceptance of any gift, donation or sponsorship to the state, whether such gifts, donations or sponsorships are in cash or kind.
- 21.2.2 All cash gifts, donations or sponsorships must be paid into the relevant revenue fund.
- 21.2.3 Where it is not apparent for what purpose a gift, donation or sponsorship should be applied, the Minister or the MEC for finance may decide how it must be utilised. Where a gift is in cash, the Minister or the MEC for finance may, notwithstanding any provision to the contrary in any law, direct that for purposes of the Act, the gift is deemed to be revenue accruing to the revenue fund.
- 21.2.4 All gifts, donations or sponsorships received during the course of the financial year must be disclosed as a note to the annual financial statements of the institution.
- 21.2.5 Donor funding received in terms of the Reconstruction and Development Fund Act (No. 7 of 1994, as amended by Act No. 79 of 1998) must be dealt with as determined by the treasury from time to time.

21.3 Gifts or [D]donations of immovable property by or to the state [Sections 76(1)(k) and (l) of the PFMA]

- 21.3.1 The relevant treasury's approval must be obtained before institutions offer or accept any gifts or donations of immovable property.
- 21.3.2 Institutions must submit to the relevant treasury the reasons for and the conditions under which the gift or donation of immovable property is offered or accepted.

21.4 Identity of donors and sponsors

- 21.4.1 When a donor or sponsor requests to remain anonymous, the accounting officer must submit to the relevant treasury a certificate from both the Public Protector and the

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Auditor-General, which states that the identity of the donor or sponsor has been revealed to them, that they have noted it and have no objection.

- 21.4.2 The above provision in no way limits the Auditor-General or the Public Protector from supplying this information to their staff, and where they deem it in the public interest, to report on this.

22

Payments, refunds and remissions as an act of grace

22.1 General [Section 76(1)(j) of the PFMA]

22.1.1 Where no legislative authority exists, the accounting officer may approve an amount of up to R100 000 as an act of grace or favour for: ~~[must seek approval from the relevant treasury prior to-]~~

- (a) the remission of money due to a revenue fund; and
- (b) payments ~~[and refunds]~~ from a revenue fund ~~[as an act of grace; and]~~

22.1.2 Where more than R100 000 is involved, ~~[seek]~~ Parliament or provincial legislature approval must be sought by including the item separately in the estimates of expenditure, ~~[and, in the case of remissions, recouping the revenue by a payment from the relevant vote; and]~~

- (ii) R100 000 or less is involved, recouping the revenue, in the case of remissions, by means of a payment from the relevant vote.]

[22.1.2 The accounting officer may, however, approve payments, refunds and remissions as an act of grace without reference to the relevant treasury, provided that such payments, refunds or remissions do not exceed R10 000 per event.]

22.1.3 Where there is doubt as to whether an amount may be written off as irrecoverable or should be treated as a remission of grace, the relevant treasury must make the decision.

22.1.4 All remissions, refunds or payments made as an act of grace during the financial year must be disclosed as a note to the annual financial statements of the institution.

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23

Government payroll deductions

[1.]23.1 Definitions

"Accountant-General" means the officer of the National Treasury designated as the Accountant-General;

["Act" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);]

"benefit deduction" means a deduction on Persal against an employee's salary for the purpose of facilitating the payment of a debt arising from an employee's benefits in terms of his or her conditions of employment or appointment, including payments in respect of a home owner's allowance and the motor financial scheme for senior government employees;

"collective agreement deduction" means a deduction on Persal against an employee's salary arising from a collective agreement entered into by and between the State in its capacity as employer and a union registered with the Public Service Co-ordinating Bargaining Council or such other similar body, in accordance with applicable law;

"debt" means amounts of money owed and already payable by an employee to any person;

"deduction code" means a code issued by the Persal system to a person to enable that person to deduct money from an individual on the Persal system;

"Director-General" means the Director-General: National Treasury;

"discretionary deduction" means a deduction on Persal against an employee's salary, other than a benefit deduction, a collective agreement deduction, a State deduction and a statutory deduction;

"employee" means a person employed by or appointed to a department or an executive authority, and includes a magistrate contemplated in section 1 of the Magistrate's Act, 1993 (Act No. 90 of 1993) and employees of constitutional institutions

"Persal" means the personnel salary system of government in the national and provincial sphere and includes **[reference to]** the system known as Persol;

"person" depending on the context, includes reference to the State or any other juristic body;

"responsible official" means an accounting officer contemplated in section 36 of the Act or such other persons to whom that accounting officer has delegated, a function to be performed in terms of this Treasury Regulation;

"State deduction" means a deduction on Persal against an employee's salary for the purpose of paying a debt owed to a department or constitutional institution and which is subject to section 34 of the Basic Conditions of Employment Act 1997 (Act No 75 of 1997);

"statutory deduction" means a deduction on Persal against an employee's salary which is required or permitted in terms of a law, court order or arbitration award.

[2. Application

This Treasury Regulation applies to all departments and constitutional institutions.]

[3.]23.2 Persal Deductions

- 23.2.1 Subject to the provisions of **paragraph [s of item 5] 23.3**, no employee of a department or constitutional institution or of any agency, company or consultant contracted to operate Persal may, for the purpose of the payment of any debt or any other purpose, process a discretionary deduction with effect from the date of the commencement of this Treasury Regulation.
- 23.2.2 Before a benefit deduction, a collective agreement deduction, a state deduction or a statutory deduction is processed on Persal, the responsible official must certify that such deduction is due and that he or she is satisfied that no portion of any such deduction is a discretionary deduction.
- 23.2.3 The responsible official must, if the certification contemplated in **[sub-item (2)] paragraph 23.2.2** is in respect of an emoluments attachment order issued against an employee in terms of section 65J of the Magistrates' Court Act, 1944 (Act No 32 of 1944), state that he or she is satisfied that
- (a) the documentation presented by the judgement creditor or his or her attorney inter alia reflects that as contemplated in section 65J (2) of the Magistrates' Court Act, 1944:
 - (i) the employee concerned has in writing consented to the issuing of the emoluments attached order or, in the absence of such consent, the court has authorised that it be issued, whether on application or otherwise, and such authorisation has not been suspended; or
 - (ii) that the judgement creditor or his or her attorney has first sent a registered letter to the employee concerned advising him or her of the amount of the judgement debt and costs as yet unpaid and warning him or her that an emoluments attachment order will be issued if the said amount is not paid within ten days of the date on which that registered letter was posted;
 - (b) after satisfaction of the emoluments attachment order, the employee concerned will have sufficient means for his or her own and his or her dependant's maintenance: Provided that if the responsible official's assessment reflects that after satisfaction of the emoluments attachment order, the concerned employee will not have sufficient means for his or her own or his or her dependant's maintenance, he or she must ensure that the judgement creditor or his or her attorney is so advised and requested to inform the court in order that the court either rescind the emoluments attachment order or amend it in such a way that

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it will affect only the balance or the emoluments of the employee concerned over and above such sufficient means.

23.3 The granting of deduction codes

23.3.1 Subject to paragraphs 23.2.1 and 23.3.2, a deduction code issued to any person for a discretionary deduction continues in force until 30 June 2001.

23.3.2 Despite anything to the contrary contained in these regulations, a person may apply for a deduction code in respect of a discretionary deduction.

23.3.3 A person applying for a deduction code must, in the application certify that:

- (a) such a person is registered with the Financial Services Board;
- (b) such a person will not allow access to the code to third parties, including brokers;
- (c) such person consents to entering into an agreement with the Accountant-General, which is subject to renewal annually;
- (d) such person consents to the oversight of the Financial Services Board and the National Treasury in the monitoring of such person's compliance with the terms of the agreement contemplated in (c) and the provisions of these regulations;
- (e) such person is in good standing with the South African Revenue Services and will provide the Accountant-General with proof of such good standing annually.

23.3.4 A fee or levy not exceeding 2,5 per cent of each deduction must be charged and the amount so collected must be paid into the relevant revenue fund.

23.3.5 The National Treasury may, in respect of a discretionary deduction for the payment of a loan, determine the maximum loan period, maximum loan amount and the interest rate to be charged on such loan, and such determination must be regarded as forming part of the agreement contemplated in paragraph 23.3.3 (c).

23.3.6 Discretionary deductions may not exceed 40 per cent of the basic salary of an employee: Provided that:

- (a) deductions for the payment of insurance premiums do not exceed 15 per cent of the basic salary of an employee;
- (b) other discretionary deductions may constitute an amount not exceeding 25 per cent of the basic salary of an employee.

23.3.7 The Minister of Finance reserves the right to determine the number of deduction codes on the Persal system.

[4.]23. 4 [Non-compliance with this Treasury Regulation constituting misconduct] Contravention of regulations and penalties

- 23.4.1 Any serious or persistent material non-compliance with the provisions of [this] these [Treasury R] regulations or the terms of the agreement contemplated in paragraph 23.3.(c) constitutes misconduct.
- 23.4.2 Without derogating from the generality of paragraph 23.4.1, it is a serious contravention of these regulations for any person to knowingly exceed the deduction limit contemplated in clause 23.3. [The accounting officer of a department or constitutional institution must, in terms of applicable statutory provisions or other conditions of appointment of employment applicable to any person involved in conduct contemplated in sub-item (1), take disciplinary steps against such person.]
- 23.4.3 The Accountant-General may impose any of the following penalties for the contravention of these regulations by any person: [The Director-General or such other person who has been delegated by the Director-General, including an employee of another department or constitutional institution, may, on just cause and despite any other provision of this Treasury Regulation, exclude any person from receiving a deduction through Persal.]
- (a) the suspension of the use of a deduction code or the withdrawal of a deduction code;
 - (b) the refusal of access to the Persal system for a determined length of time;
 - (c) the publication of the identity of the person and the details of the contravention which such a person has committed;
 - (d) the laying of criminal charges; and
 - (e) if the person violating these regulations is an employee, direct that such person's contravention be dealt with in terms of the Act.
- 23.4.4 Any person aggrieved by a decision of, or penalty imposed by the Accountant-General, may appeal to the Minister of Finance and the Minister's decision shall be final.

[5.]23.5 Transitional arrangements

- 23.5.1 A discretionary deduction which, at the date of commencement of this Treasury Regulation, had been registered against an [employee's] official's salary on Persal, remains so registered until 30 June 2001 or until such earlier date requested by the [employee] official.
- 23.5.2 A discretionary deduction contemplated in [sub-item (1)] paragraph 23.5.1 may, from the date of commencement of this Treasury Regulation to 30 June 2001, be amended upwards only once and only in respect of insurance premiums: Provided that such upward amendment may not exceed 15 per cent of the premium due or R10, whichever is the greater.

[6.] [Short title and commencement]

[This Treasury Regulation shall be called the Payroll Deduction Regulation, 2000 and takes effect on 1 September 2000.]

PART 9

Public Entities

24

General definitions

24.1 General definitions

"employee" means a person in the employment of a public entity;

"designated department", in relation to a public entity, means a department designated by its executive authority as the department responsible for the public entity;

"designated accounting officer" means the accounting officer of a designated department.

Application and listing

25.1 Application [Sections 47 and 76(4) of the PFMA]

25.1.1 These regulations apply to all:

- (a) public entities listed in Schedules 2 and 3, unless the context indicates otherwise;
- (b) public entities not listed in Schedules 2 or 3 but which, in terms of section 47 of the Act, are required to be listed.

25.1.2 Public entities must submit all information required by the National Treasury in terms of the Act and these *Treasury Regulations* to the Registrar of Public Entities established within the National Treasury.

25.2 Listing [Section 47(2) of the PFMA]

25.2.1 An accounting authority of a public entity not listed in terms of section 47(2) of the Act must submit the following information to the executive authority and the Registrar of Public Entities no later than 30 June 2001:

- (a) name of the public entity;
- (b) main function of the public entity;
- (c) executive authority responsible for the public entity;
- (d) legislation in terms of which the public entity was established;
- (e) dates of its incorporation and financial year end;
- (f) names of members of the board or body controlling the public entity;
- (g) registered address and telephone numbers of the public entity;
- (h) name of the chief executive officer;
- (i) name of the chief financial officer;
- (j) name of the company secretary;
- (k) authority responsible for appointing the chief executive officer;
- (l) authority responsible for appointing the board of directors or controlling body;
- (m) subsidiaries under the ownership control of the entity;
- (n) latest audit financial statements;
- (o) amount of budgetary transfers received over the past three financial years; and
- (p) corporate plan of the public entity.

26

Responsibilities of designated accounting officers

26.1 Responsibilities over Schedule 3A and 3C public entities

26.1.1 The designated accounting officer must submit, with his or her departmental strategic plan, an assessment which outlines:

- (a) the purpose of all public entities in terms of Schedules 3A or 3C, and why its functions cannot be undertaken by the department itself;
- (b) assess the cost effectiveness of maintaining a separate public entity to perform the functions allocated to that entity;
- (c) the oversight arrangements over the activities of such a public entity; and
- (d) the remuneration levels of the accounting authority and senior management.

26.1.2 The designated accounting officer must ensure that the public entity submits monthly reports within ten days after the end of each month on its actual revenue, expenditure and transfers received up to the end of that month. The monthly departmental report required in terms of section 40(4)(c) of the Act must include information provided by public entities, as well as any other statutory funds administered by the department where funds have been transferred, including housing funds.

26.1.3 The designated accounting officer must monitor compliance by the public entity with the Public Finance Management Act, 1999, including:

- (a) that the public entity does not borrow money or runs an overdraft; and
- (b) that all bank accounts operated by the entity are in terms of approvals in terms of the Public Finance Management Act, 1999 and these Treasury Regulations.

26.1.4 The designated accounting officer may, for public entities listed in Schedule 3A and 3C, and which have an annual budget below R100 million for the next financial year, approve the sharing of services where it is economical, including the audit committee, internal audit unit, human and strategic planning.

26.1.5 The designated accounting officer must ensure that appropriate financial controls are in place in the public entity where such an entity has responsibility over any funds.

27

Internal control and corporate management

27.1 Audit committees [Sections 51(1)(a)(ii) and 76(4)(d) of the PFMA]

- 27.1.1 The accounting authority of a public entity must establish an audit committee for the public entity.
- 27.1.2 A shared audit committee may be established for a public entity and any subsidiaries under the ownership and control of that entity. In the case of public entities listed in Schedule 3A and 3C which have annual budgets of less than R100 million, the audit committee of the designated department shall fulfil this function for the public entity, unless exempted by the National Treasury.
- 27.1.3 The chairperson of an audit committee may not be a member of the controlling body or an employee of the public entity or a political office bearer.
- 27.1.4 The majority of the members of an audit committee may not be in the employment of the public entity or be members of the controlling body.
- 27.1.5 Members of an audit committee who are not in the employ of the public entity or who are not members of the controlling body must have proven experience. Their remuneration must be in accordance with the tariffs as determined by the South African Institute of Chartered Accountants in consultation with the Auditor-General.
- 27.1.6 The relevant executive authority has to concur with any pre-mature termination of services of a person serving on the audit.
- 27.1.7 The audit committee must, in consultation with the head of internal audit, establish an audit charter to guide the internal audit approach.
- 27.1.8 The audit committee must:-
 - (a) report and make recommendations to the accounting authority;
 - (b) report on the effectiveness of internal controls in the annual report of the institution; and
 - (c) evaluate the financial statements of the institution for reasonableness and fair presentation.
- 27.1.8 Should a report from internal audit (or any other source) to the audit committee implicate any or all members of the accounting authority in fraud, corruption or gross negligence, the chairperson of the audit committee must promptly report this to the relevant executive authority and the Auditor-General.
- 27.1.10 The audit committee must communicate any concerns it may have to the executive authority, the Auditor-General and if appropriate, to the external auditor.

27.2 Internal controls and internal audit [Sections 51(1)(a)(ii) and 76(4)(b) and (e) of the PFMA]

- 27.2.1 The accounting authority must facilitate a risk assessment to determine the material risks to which the entity may be exposed and to evaluate the strategy for managing those risks. The strategy must be used to direct the internal audit effort and priority, and to determine the skills required to manage these risks.
- 27.2.2 The accounting authority must establish an internal audit unit.
- 27.2.3 A public entity and subsidiaries under the ownership control of the entity may have a shared internal audit unit. In the case of public entities listed in Schedule 3A and 3C that have annual budgets of less than R100 million, the internal audit unit of the designated department shall fulfil this function for the public entity, unless exempted by the National Treasury.
- 27.2.4 The internal audit function may, in accordance with preferred tendering procedures, be contracted out to an external institution with specialist audit expertise, provided that the external auditors may not be involved in performing the function of internal audit.
- 27.2.5 Internal audit must be conducted in accordance with the standards set by the Institute of Internal Auditors.
- 27.2.6 The internal audit unit must, in consultation with the audit committee, prepare:-
- (a) a rolling three-year strategic internal audit plan based on its assessment of key areas of risk for the public entity, having regard to its current operations, the operations proposed in its corporate plan and its risk management strategy;
 - (b) an annual internal audit plan for the first year of the rolling plan;
 - (c) plans indicating the scope of each audit in the annual internal audit plan;
 - (d) a *modus operandi*, with management inputs, to guide the audit relationship; and
 - (e) reports to the audit committee detailing its performance against the plan, to allow effective monitoring and intervention when necessary.
- 27.2.7 The internal audit unit must be independent and able to access all information in the possession of or available to the public entity.

27.3 Chief financial officers

- 27.3.1 Unless directed otherwise by the relevant treasury, each public entity in Schedule 3A, 3C and 3D with annual budgets (for the last audited financial year) equal to or exceeding R100 million, must appoint a chief financial officer by no later than 31 October 2001.
- 27.3.2 Unless deemed economical by the relevant treasury for a public entity to appoint its own chief financial officer, the chief financial officer of the designated department must perform the function of chief financial officer for public entities whose expenditure budget is less than R100 million in its last audited financial year.

28

Annual financial statements**28.1 Financial statements [Section 55 of the PFMA]**

- 28.1.1 The annual financial statements must, include a report by the directors or controlling body and must include disclosures of director's emoluments in accordance with the reporting standards determined by the National Treasury.
- 28.1.2 Public entities listed in Schedules 3A and 3C of the Act must adjust their financial years in accordance with the following table:

YEAR END	CHANGE TO	PERIOD OF AUDIT
30 April 2001	31 March 2002	11 months
31 May 2001	31 March 2002	10 months
30 June 2001	31 March 2002	09 months
31 July 2001	31 March 2002	08 months
31 August 2001	31 March 2002	07 months
30 September 2001	31 March 2003	18 months
31 October 2001	31 March 2003	17 months
30 November 2001	31 March 2003	16 months
31 December 2001	31 March 2003	15 months
31 January 2002	31 March 2003	14 months
28 February 2002	31 March 2003	13 months

- 28.1.3 Public entities listed in Schedules 3A and 3C of the Act, and which have annual budgets of less than R100 million, may submit their financial statements, and any other information required in terms of the Act to the designated accounting officer, in order to enable the designated accounting officer to include all such information in the department's annual report.

29

Corporate planning and shareholder's compacts

29.1 Corporate plans [Section 52 of the PFMA]

29.1.1 The accounting authority of a public entity listed in Schedule 2, 3B and 3D must annually establish a corporate plan for that entity and any subsidiaries under its ownership control. Such a corporate plan must be submitted to the designated accounting officer within three months before the start of the financial year, for approval by the executive authority. The approved plan must be submitted to the relevant treasury no later than one month before the start of the financial year.

29.1.2 The corporate plan must cover a period of three years and must include:-

- (a) strategic objectives and outcomes identified and agreed upon by the executive authority in the shareholder's compact;
- (b) strategic and business initiatives as embodied in business function strategies;
- (c) key performance measures and key indicators for assessing the public entities performance in delivering the desired outcomes and objectives;
- (d) a risk management plan;
- (e) a fraud prevention plan; and
- (e) a financial plan addressing:
 - (i) projections of revenue, expenditure and borrowings;
 - (ii) cash flow statements;
 - (iii) capital expenditure programmes; and
 - (iv) dividend policies.

29.1.3 The executive authority of a public entity may request additional information to be included in the corporate plan.

29.1.4 Public entities listed in Schedule 2 or 3B must:

- (a) submit with their corporate plan to the National Treasury, a three-year borrowing programme beginning with the first financial year of the corporate plan; and
- (b) submit to the National Treasury, quarterly reports on the borrowing programme, reflecting actual borrowing for that quarter and any update in the borrowing programme.

29.1.5 Provincial government business enterprises listed in Schedule 3D and authorised to borrow by the Minister of Finance must:-

- (a) with their corporate plans submit to the MEC for Finance in that province, a three year borrowing programme beginning with the first financial year of the corporate plan, but which must be in terms of approvals and limits determined

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by the Minister, and in terms of the Borrowing Powers of Provincial Governments Act; and

- (b) submit to the MEC for Finance in the province, quarterly reports on the approved borrowing programme, reflecting actual borrowing for that quarter and any update in the borrowing programme.

29.1.6 The MEC mentioned in paragraph 29.1.5 must forward to the National Treasury:-

- (a) a copy of the corporate plan and approved borrowing plan;
- (b) quarterly updates reflecting actual borrowing for that quarter; and
- (c) any update in the borrowing programme of all provincial government business enterprises listed in Schedule 3D that are authorised to borrow.

29.1.7 The borrowing programme referred to in paragraphs 29.1.4 and 29.1.5 must include:-

- (a) the terms and conditions on which the money is borrowed;
- (b) information on proposed domestic borrowing;
- (c) for national public entities, information on proposed foreign borrowing within the prescribed limit, where applicable;
- (d) short and long term borrowing;
- (e) the relation of borrowing to a pre-approved corporate plan;
- (f) the maturity profile of the debt;
- (g) the confirmation of compliance with existing and proposed loan covenants;
- (h) debts guaranteed by government;
- (i) motivations for government guarantees, if required and
- (j) approval of the borrowing programme by the executive authority of the public entity when required by legislation in terms of which the public entity was established.

29.2 Shareholder's compact

29.2.1 The accounting authority for a public entity listed in Schedule 2, 3B and 3D must, in consultation with the executive authority of the public entity, annually conclude a shareholder's compact.

29.2.2 The shareholder's compact must document the mandate key performance measures and indicators to be attained by the public entity as agreed between the accounting authority and the executive authority.

29.3 Evaluation of performance

29.3.1 The accounting authority of a public entity must establish procedures for quarterly reporting to the executive authority in order to facilitate effective performance monitoring, evaluation and corrective action.

29.3.2 The accounting authority must issue quarterly reports to the executive authority no later than 30 days after the end of each quarter.

30

Annual budgets and strategic planning

30.1 Annual Budgets

- 30.1.1 For the purposes of section 52(a) of the Act, an accounting authority must submit to the designated accounting officer, by 30 June 2001, the proposed annual budget for the next financial year and the following two financial years, including any projections of revenue and expenditure in the format determined by the National Treasury. This budget must be approved by the executive authority.

30.2 Strategic plan

- 30.2.1 The accounting authority for a public entity listed in Schedule 3A and 3C must submit by 30 June 2001, a proposed strategic plan for the next financial year for approval by the relevant executive authority.
- 30.2.2 The strategic plan must be finalised and submitted before the start of the 2002 financial year.
- 30.2.3 The strategic plan must:
- (a) cover a period of three years;
 - (b) include objectives and outcomes as identified by the executive authority;
 - (c) include multi-year projections of revenue and expenditure;
 - (d) include key performance measures and key indicators for assessing the public entity's performance in delivering the desired outcomes and objectives;
 - (e) be updated annually on a rolling basis; and
 - (f) form the basis for the annual reports of accounting authorities in terms of section 55 of the Act.
- 30.2.4 The executive authority may request additional information to be included in the strategic plan.

30.3 Evaluation of performance

- 30.3.1 The accounting authority of a public entity must establish procedures for quarterly reporting to the executive authority in order to facilitate effective performance monitoring, evaluation and corrective action.
- 30.3.2 The accounting authority must submit monthly financial reports to the designated accounting officer no later than 15 days after the end of each month, on actual revenue and expenditure received for the financial year up to the end of that month.

31

Cash, banking and investment management

31.1 Cash management [Section 7(1) of the PFMA]

- 31.1.1 The accounting authority of a public entity listed in Schedule 3 is responsible for establishing systems, procedures, processes and training and awareness programmes to ensure efficient and effective banking and cash management.
- 31.1.2 The public entity may not enter into an overdraft except with the written approval of the Minister of Finance.
- 31.1.3 The accounting authority must ensure that the public entity's cash management performance is reported on a regular basis but at least monthly.

31.2 Banking framework [Sections 7(2) and (3) of the PFMA]

- 31.2.1 The relevant treasury's approval of the bank is required when a public entity listed in Schedule 3 intends to open a new bank account. For purposes of section 7(2)(a) of the Act, existing banking arrangements can be regarded as approved by the National Treasury, but the accounting authority must submit by 31 May 2001 a list of all such banking accounts.
- 31.2.2 When going out on tender, and if the relevant treasury has not proposed its own bank, the public entity must take into account:-
 - (a) that the bank is registered with the South African Registrar of Banks;
 - (b) that the bank is a member or sponsored by a member of the Payments Association of South Africa (PASA);
 - (c) contracting by the bank with persons, or categories of persons historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
 - (d) the cost effectiveness; and
 - (e) the ability of the bank to provide the required services which includes sufficient systems, infrastructure and branch networks.

- 31.2.3 The adjudication and awarding of tenders must be done in accordance with public entity's own internal tendering procedures.

- 31.2.6 Only the accounting authority or the person holding the position within the public entity to whom such authorisation has been delegated may open a bank account.

31.3 Investment policy [Sections 7(4) and 53(3) of the PFMA]

- 31.3.1 A government business enterprise listed in Schedule 2, 3B and 3D or a public entity listed in Schedule 3A or 3C authorised to invest surplus funds, must have an investment policy approved by the accounting authority.

31.3.2 The investment policy referred to in paragraph 31.3.1 must include:

- (a) selection of counter-parties through credit risk analysis;
- (b) establishment of investment limits per institution;
- (c) establishment of investment limits per investment instrument;
- (d) monitoring of investments against limits;
- (e) re-assessment of investment policies on a regular basis;
- (f) re-assessment of counter-party credit risk based on credit ratings;
- (g) assessment of investment instruments based on liquidity requirements.

31.3.3 Public entities listed in Schedule 3A and 3C must annually obtain the approval of the National Treasury to accumulate surpluses.

31.3.4 Public entities authorised to invest surplus funds may only:

- (a) invest aggregate surplus funds with the Corporation for Public Deposits (CPD), where such surpluses are in excess of R 1 million;
- (b) invest aggregate surplus funds in an institution with an investment grade rating, where such surpluses are less than R 1 million.

32

Borrowings

32.1 Borrowing [Section 66 of the PFMA]

32.1.1 Public entities listed in Schedules 3A and 3D may only borrow money for bridging purposes with the approval of the Minister of Finance, subject to the following conditions:

- (a) the debt must be re-paid within 30 days after the end of the financial year;
- (b) borrowing may not exceed a limit pre-determined by the Minister of Finance, in consultation with the national executive authority or provincial MEC for Finance, may be appropriate;
- (c) foreign borrowing may not be undertaken;
- (d) a request for borrowing for bridging purposes must be submitted to the Minister of Finance at least 30 days before the borrowing. The following must be submitted together with the request:-
 - (i) a detailed cash flow and income and expenditure statement indicating how the debt will be re-paid during the prescribed; and
 - (ii) the terms and conditions on which the money is borrowed.

32.1.2 The provisions in this chapter do not preclude the use of credit cards, fleet management cards or other credit facility repayable within 30 days from the date of statement.

33

Financial misconduct

33.1 Investigation of alleged financial misconduct [Sections 85(1)(b), (c) and (d) of the PFMA]

- 33.1.1 If an employee is alleged to have committed financial misconduct, the accounting authority of the public entity must ensure that disciplinary proceedings are carried out in accordance with the relevant prescripts applicable to that entity.
- 33.1.2 The accounting authority must ensure that the investigation is conducted within a reasonable period.
- 33.1.3 If an accounting authority or any of its members is alleged to have committed financial misconduct, the relevant executive authority, as soon as he or she becomes aware of the alleged misconduct, must ensure that appropriate disciplinary proceedings are initiated against the accounting authority or member(s) responsible.
- 33.1.4 A treasury may after consultation with the executive authority:-
- (a) direct that a person other than an employee of the public entity conducts the investigation;
 - (b) issue any reasonable requirement regarding the way in which the investigation should be performed.

33.2 Criminal proceedings [Section 86 of the PFMA]

- 33.2.1 The accounting authority must advise the executive authority, the relevant treasury and the Auditor-General of any criminal charges it has laid against any person in terms of section 86 of the Act.
- 33.2.2 The executive authority or relevant treasury may direct a public entity to lay charges of criminal financial misconduct against any person should an accounting authority fail to take appropriate action.

33.3 Reporting [Section 85(1)(a) and (e) of the PFMA]

- 33.3.1 The accounting authority must, on an annual basis, submit to the executive authority, the relevant treasury and Auditor-General a schedule of:-
- (a) the name and rank of officials facing disciplinary hearings or criminal charges;
 - (b) the outcome of any disciplinary hearings and/or criminal charges; and
 - (c) the sanctions and any further action taken against the relevant official.

Such a report refers to any significant changes to the public entity's systems of financial and risk management or any other matter dealt with in the Act, as a result of the investigation.

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