



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 431

Pretoria, 14 May
Mei 2001

No. 22294



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GENERAL NOTICE

NOTICE 947 OF 2001**NATIONAL TREASURY****GENERAL NOTICE****AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
SOUTH AFRICA AND THE GOVERNMENT OF THE PROVINCE OF
MPUMALANGA IN TERMS OF SECTION 100 OF THE CONSTITUTION**

It is hereby made known for general information that an agreement as set out in the Annexure hereto has in terms of section 100 of the Constitution been entered into between the Government of the Republic of South Africa and the Government of the Province of Mpumalanga.

The Agreement has been signed on behalf of the Government of the Republic of South Africa by T A Manuel, MP, Minister of Finance and on behalf of the Province of Mpumalanga by N Mahlangu, MPL, Premier of the Province of Mpumalanga, and took effect on 3 April 2001.

ANNEXURE

MEMORANDUM OF AGREEMENT ENTERED INTO BY AND BETWEEN

**THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA,
HEREIN REPRESENTED BY THE MINISTER OF FINANCE,
DULY AUTHORISED**

AND

**THE GOVERNMENT OF THE PROVINCE OF MPUMALANGA,
HEREIN REPRESENTED BY THE PREMIER, COLLECTIVELY
REFERRED TO IN THIS AGREEMENT AS "THE PARTIES"**

WHEREAS section 100(1) of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996) ("the Constitution") provides that:

"When a province cannot or does not fulfil an executive obligation in terms of legislation or the Constitution, the national executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation, including –

- (a) issuing a directive to the provincial executive, describing the extent of the failure to fulfil its obligations and describing any steps required to meet its obligations"; **AND**

WHEREAS the Government of the Province of Mpumalanga ("the Province") has, under the leadership of Premier, over a period of about 18 months since June 1999, taken bold steps to address the precarious state the Province's finances have been in; **AND**

WHEREAS, despite the bold steps already taken to address the precarious state of the Province's finances, the Province recognises that, due to its cash flow difficulties, it will not be able to fulfil some of its executive obligations in terms of law and has, accordingly, requested the National Government to assist it to fulfil such obligations; **AND**

WHEREAS, in accordance with its responsibility in terms of section 100 of the Constitution, the National Government desires to take appropriate steps in terms of section 100(1)(a) of the Constitution to ensure that the Province fulfils its executive obligations.

NOW THEREFORE, the parties agree, the one with the other, that:

1. Appointment of MEC for Finance

The Province undertakes to appoint, in terms of section 132(2) of the Constitution, a Member of the Executive Council for Finance ("the MEC for Finance") by 15 May 2001.

2. National Government's financial assistance of Province

The National Government undertakes to grant the Province an amount of R300 million to be utilised to fund the Province's outstanding financial commitments accumulated over the 1999/00 and the 2000/01 financial years.

3. Implementation of 2001 Budget

(i) ***The 2001 Budget***

The province undertakes to-

- (a) ensure that its expenditure remains within the R7,998 billion resource envelope of the Province for the 2001/02 financial year, and to ensure that each department stays within its voted budget;
- (b) appropriately reallocate, through the Adjustments Estimate, the contingency reserve of R297 million to the Budget Votes: Provided that, to the extent necessary, it may provide for a contingency reserve of an amount not exceeding R20 million; and
- (c) present to the National Treasury, by 30 June 2001, a detailed cash flow plan for the 2001/02 financial year.

(ii) ***Improvement of financial management***

The Province commits itself to exercise sound financial practices by-

- (a) complying with the provisions of the Division of Revenue Act, 2001 (Act No 1 of 2001), the Public Finance Management Act, 1999 (Act No 1 of 1999) ("the PFMA"), including the restrictions on provincial borrowing, and shall, to this end, report to the Minister of Finance ("the Minister") on its compliance;

- (b) initiating, through the MEC for Finance, a forensic audit of the finances of the Province, including the conditional grants allocated to the Province;
- (c) assessing and improving the capacity of financial management in key spending departments (e.g. Education, Health and Welfare), including appointing appropriately qualified and experienced Chief Financial Officers (CFOs); and
- (d) effectively dealing with unauthorised expenditure through, amongst other things, taking disciplinary steps against those responsible for such a breach of treasury control measures.

(iii) ***Strengthening of initiated financial management reforms***

The Province undertakes to continue to improve its financial management and shall, to this end-

- (a) implement proper cash flow management and weekly monitoring under the supervision of a Cash Flow Management Committee;
- (b) ensure that suspense accounts are cleared on a monthly basis
- (a) decentralise the management of the Basic Accounting System (BAS), Provisioning Administration System (PAS) and the PERSAL function; and
- (b) withdraw the facility to issue hand-drawn cheques.

(iv) ***Provincial Treasury Committee***

The Province undertakes to-

- (a) establish a Provincial Treasury Committee ("the Committee") to be chaired by the MEC for Finance and which must consist of such members of the Executive Council as the Premier may determine and such officials of the Provincial Treasury as may be determined by the MEC for Finance;
- (b) ensure that the Committee evaluates expenditure reports, at least quarterly, and advises the Provincial Executive Council on financial and fiscal issues; and

- (c) consent to the National Treasury's participation in the Committee, in an observer capacity.

4. The 2002 Budget and subsequent MTEF

The Province undertakes to ensure that-

- (a) the provincial budget process reforms initiated, in terms of which strategic planning in the Province, under the political direction of the Provincial Executive Council, are strengthened;
- (b) when the Budget for the 2002/03 financial year is tabled, the MTEF Budget provides for a contingency reserve of an amount not exceeding R20 million annually; and
- (c) in the budgets for each of the 2002/03, 2003/04 and 2004/05 financial years, respectively, the Province provides for a surplus budget of at least R50 million to finance the debt of the province as at 31 March 2001 and takes such steps as are necessary to finance any other remaining debts, without unduly disrupting the provision of basic services.

5. Cost Saving Measures

The Province commits itself to ensuring that it continues with, and improves on, existing cost saving initiatives and shall, to this end, introduce the following measures:

- (a) the revision of its policy on the issuing and management of cellular phones;
- (b) the review of the subsidised vehicle scheme;
- (c) the imposition of a limit to the addition of new vehicles to the provincial fleet; and
- (d) the initiation of processes to rationalise departmental and administrative structures in order to eliminate the unnecessary duplication of functions.

6. Debt obligations

The Province commits itself to determine, by 30 June 2001, its total debt commitments and to comply timely with all financial obligations, including with regard to its payments to the South African Revenue Services and the Government Employees Pension Fund and in respect of the payment of other legitimate claims against the Provincial Revenue Fund,

including for the payment of municipal rates and charges and other creditors and suppliers.

7. Improvement of collection of own revenue

The Province commits itself to seriously improve the collection of its own revenue in accordance with its statutory powers and shall, to this end, present to the Minister, by 30 June 2001, a plan to improve own revenue collection by at least 10%, which must reflect-

- (a) commitments by departments to improve and enhance revenue;
- (b) steps to review all tariffs, fines, fees and rents to bring them in line with the levels of other provinces; and
- (c) a register of all government houses and other immovable properties, their location and condition, the identity of their occupants, the rent paid and confirmation that all accrued rentals have been collected.

8. Quarterly reporting

The Province undertakes to, on a quarterly basis or such other periods as may be determined by the Minister, provide the Minister with comprehensive reports, prepared by the MEC for Finance and co-signed by the Premier, on progress in implementing this agreement.

9. Riverside complex

The Province undertakes to, by 31 May 2001, provide the Minister with the actual total costs of the building, including an outline of all its financial commitments, guarantees and other liabilities arising from its involvement in the Riverside Government Building Complex, to report on the steps taken or to be taken to resolve any issues arising from the said complex and to incorporate such liabilities into the province's MTEF budget.

10. General provisions

- (i) The Province undertakes to ensure that the Provincial Executive Council takes such steps as are appropriate to ensure compliance with this agreement, including communicating to the Province's officials its commitments, responsibilities and obligations;

- (ii) This agreement may only be amended by the parties' mutual consent and such amendment shall only be of force and effect if reduced to writing by the parties;
- (iii) No waiver, including by conduct, of the terms and conditions of this agreement, shall constitute its amendment;
- (iv) Any serious or persistent material breach of the terms of this agreement may result in the National Government taking stringent steps against the Province, including the suspension of the provision of additional resources, or any portion thereof, to be made to the Province; and
- (v) This agreement takes effect on 3 April 2001 and is valid for a period not exceeding 12 months: Provided that if, as a result of a comprehensive review of the Province's compliance with the terms of this agreement to be carried out in March 2002, the Minister considers it necessary for this agreement or any term thereof to continue in force beyond that 12 months period, the Minister shall, in writing, so inform the Premier.

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Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
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