



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 526 Cape Town

16 April 2009

No. 32137

THE PRESIDENCY

No. 426

16 April 2009

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 9 of 2009: Money Bills Amendment Procedure and Related Matters Act, 2009.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

*(English text signed by the President.)
(Assented to 14 April 2009.)*

ACT

To provide for a procedure to amend money Bills before Parliament and for norms and standards for amending money Bills before provincial legislatures and related matters.

Preamble

WHEREAS the Constitution requires that all spheres of government must not assume any power or function except those conferred on them in terms of the Constitution; and exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere;

WHEREAS the Constitution provides that only the Cabinet member responsible for national financial matters may introduce a money Bill or a Bill which provides for legislation envisaged in section 214 of the Constitution:

WHEREAS the Constitution provides that legislative authority of the national sphere of government is vested in Parliament;

WHEREAS the Constitution provides that an Act of Parliament must provide for a procedure to amend money Bills before Parliament;

AND WHEREAS the purpose of amending money Bills is to give effect to resolutions on oversight of the National Assembly and the National Council of Provinces,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—

“**Adjustments Appropriation Bill**” means the bill that provides for the adjustments to appropriation necessary to give effect to the national adjustments budget referred to in section 30 of the Public Finance Management Act; 5

“**budgetary revenue and expenditure**” means the revenue and expenditure that is approved through the annual appropriation and revenue Acts;

“**Chairperson**” means the Chairperson of the National Council of Provinces or, when applicable, the office-bearer acting as Chairperson of the Council; 10

“**committee**” means a committee, subcommittee or joint committee consisting of members and established in terms of the standing rules or legislation;

“**committee on appropriations**” means the committee in each House established in terms of section 4(3) responsible for considering matters of expenditure; 15

“**committee on finance**” means the committee in each House established in terms of section 4(1) responsible for considering macroeconomic, fiscal and revenue policy; 20

“**contingent liabilities**” means implicit government liabilities that may arise out of contractual and non-contractual obligations;

Act No. 9, 2009

MONEY BILLS AMENDMENT PROCEDURE AND
RELATED MATTERS ACT, 2009

“day” means any day other than a Saturday, Sunday, public holiday or a day on which Parliament is in recess;

“Division of Revenue Bill” means the Bill which must be enacted annually in terms of section 10 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997) pursuant to section 214(1) of the Constitution;

“extra-budgetary revenue and expenditure” means the financial implication of government transactions that are not included in the annual appropriation act or revenue acts;

“fiscal framework” means the framework for a specific financial year that gives effect to the national executive’s macro-economic policy and includes—

(a) estimates of all revenue, budgetary and extra-budgetary specified separately, expected to be raised during that financial year;

(b) estimates of all expenditure, budgetary and extra-budgetary specified separately, for that financial year;

(c) estimates of borrowing for that financial year;

(d) estimates of interest and debt servicing charges; and

(e) an indication of the contingency reserve necessary for an appropriate response to emergencies or other temporary needs, and other factors based on similar objective criteria;

“House” means the National Assembly or the National Council of Provinces, as the case requires;

“joint rules” means the rules referred to in section 45 of the Constitution;

“medium term budget policy statement” means the medium term budget policy statement referred to in section 6;

“Minister” means the Cabinet member responsible for national financial matters;

“money Bill” is a Bill referred to in section 77 of the Constitution, or part of such a Bill;

“national adjustments budget” means the national adjustments budget referred to in section 30 of the Public Finance Management Act;

“national budget” means the national annual budget referred to in section 27 of the Public Finance Management Act;

“National Treasury” means the National Treasury established by section 5 of the Public Financial Management Act;

“Parliament” means the National Assembly and the National Council of Provinces as envisaged in section 42 of the Constitution;

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act 1 of 1999);

“revenue Bills” means Bills that impose or abolish national taxes, levies, duties or surcharges or which abolish reduce or grant exemption from any national taxes, levies, duties or surcharges;

“Secretary” means the Secretary to Parliament;

“Speaker” means Speaker of the National Assembly or, when applicable, the office bearer acting as Speaker;

“standing rules” means the rules made by the National Assembly or the National Council of Provinces in terms of section 57 or 70 of the Constitution, or the joint rules, as the case requires;

“the Constitution” means the Constitution of the Republic of South Africa, 1996; and

“vote” has the same meaning as defined in the Public Finance Management Act.

Interpretation of this Act

2. Every person interpreting or applying this Act must—
- (a) do so in a manner that gives effect to the constitutional authority of the National Assembly and the National Council of Provinces in passing legislation and maintaining oversight of the exercise of national executive authority; and 5
 - (b) take into account the relevant fiscal framework submitted to and adopted by Parliament.

Application of this Act

3. This Act applies to all proposed amendments to money Bills before Parliament. 10

Parliamentary committees for consideration of money Bills

4. (1) Each House must establish a committee on finance.
- (2) A committee on finance has the powers and functions conferred to it by the Constitution, legislation, the standing rules or a resolution of a House, including considering and reporting on— 15
- (a) the national macro-economic and fiscal policy;
 - (b) amendments to the fiscal framework, revised fiscal framework and revenue proposals and Bills;
 - (c) actual revenue published by the National Treasury; and
 - (d) any other related matter set out in this Act. 20
- (3) Each house must establish a committee on appropriations.
- (4) A committee on appropriations has the powers and functions conferred to it by the Constitution, legislation, the standing rules or a resolution of a House, including considering and reporting on— 25
- (a) spending issues;
 - (b) amendments to the Division of Revenue Bill, the Appropriation Bill, Supplementary Appropriations Bills and the Adjustment Appropriations Bill;
 - (c) recommendations of the Financial and Fiscal Commission, including those referred to in the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997); 30
 - (d) reports on actual expenditure published by the National Treasury; and
 - (e) any other related matter set out in this Act.
- (5) The standing rules must provide for—
- (a) the composition of the committees;
 - (b) the election of the chairpersons; 35
 - (c) the functions of the committees in addition to those stipulated in this Act;
 - (d) consultation between the respective committees on finance of each House;
 - (e) consultation between the respective committees on appropriations of each House; and
 - (f) any other related matter. 40

Procedure prior to introduction of the national budget

5. (1) The National Assembly, through its committees, must annually assess the performance of each national department, with reference to the following:
- (a) The medium term estimates of expenditure of each national department, its strategic priorities and measurable objectives, as tabled in the National Assembly with the national budget; 45
 - (b) prevailing strategic plans;
 - (c) the expenditure report relating to such department published by the National Treasury in terms of section 32 of the Public Finance Management Act;
 - (d) the financial statements and annual report of such department; 50
 - (e) the reports of the Committee on Public Accounts relating to a department; and

- (f) any other information requested by or presented to a House or Parliament.
- (2) Committees must annually submit budgetary review and recommendation reports for tabling in the National Assembly for each department.
- (3) A budgetary review and recommendation report—
- (a) must provide an assessment of the department's service delivery performance given available resources; 5
 - (b) must provide an assessment on the effectiveness and efficiency of the departments use and forward allocation of available resources; and
 - (c) may include recommendations on the forward use of resources.
- (4) A committee reporting to the National Assembly in terms of this section must submit its budgetary and recommendation report after the adoption of the Appropriation Bill and prior to the adoption of the reports on the Medium Term Budget Policy Statement. 10
- (5) Any budgetary review and recommendation report must be submitted to the Minister and the member of Cabinet responsible for the vote to which the report applies after its adoption by the National Assembly and prior to the adoption of the reports on the Medium Term Budget Policy Statement. 15
- (6) Additional budgetary and recommendation reports may be submitted at the discretion of a committee.

Medium Term Budget Policy Statement

20

6. (1) At least three months prior to the introduction of the national budget, the Minister must submit to Parliament a medium term budget policy statement.
- (2) The medium term budget policy statement must include—
- (a) a revised fiscal framework for the present financial year and the proposed fiscal framework for the next three years; 25
 - (b) an explanation of the macro-economic and fiscal policy position, the macro-economic projections and the assumptions underpinning the fiscal framework;
 - (c) the spending priorities of national government for the next three years;
 - (d) the proposed division of revenue between the spheres of government and between arms of government within a sphere for the next three years; 30
 - (e) the proposed substantial adjustments to conditional grant allocations to provinces and local governments, if any; and
 - (f) a review of actual spending by each national department and each provincial government between 1 April and 30 September of the current fiscal year. 35
- (3) A House must refer matters referred to in subsections (2)(a) and (b) to its committee on finance.
- (4) A House may require its committee on finance to consult with any other committee in considering matters referred to it.
- (5) Each committee on finance must 30 days after the tabling of the Medium Term Budget Policy Statement report to the National Assembly or the National Council of Provinces, as the case may be, on the proposed fiscal framework for the next three financial years. 40
- (6) The report may include recommendations to amend the fiscal framework should it remain materially unchanged when submitted with the national budget. 45
- (7) A report referred to in (5) must be submitted to the Minister within 7 days after its adoption by a House.
- (8) A House must refer matters concerning subsections (2)(c), (d) and (e) to its committee on appropriations.
- (9) A House may require its committee on appropriations to consult with any other committee in considering matters referred to it. 50
- (10) Each committee on appropriations must 30 days after the tabling of the Medium Term Budget Policy Statement submit a report to the National Assembly or the National