

Legislation on budget process

Presentation – PEMPAL Study Tour

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national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Legislation regarding budget

Various laws regulating budgets of national, provincial & local government

- South African Constitution, 1996
- Intergovernmental Fiscal Relations Act, 1997
- Public Finance Management Act, 1999
- Municipal Finance Management Act, 2003
- Money Bills Amendment Procedure and Related Matters Act, 2009
- *Annual* Division of Revenue Act and Appropriation Act
- *Annual* Division of Revenue Amendment Act and Adjustments Appropriation Act
- Taxation laws and *annual* amendments



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Constitutional requirements (1)

- **South African Constitution** requires
 - all moneys received by national government to be paid into **National Revenue Fund**
 - **budget legislation** to withdraw funds from National Revenue Fund (section 213)
 - Act of Parliament (called Division of Revenue Act) to provide for
 - **equitable division of revenue** raised nationally among national, provincial & local government
 - determination of each **province's equitable share**
 - other allocations/**grants** to provinces and local government **from national government's share** (section 214(1))

Constitutional requirements (2)

- Before adoption of **Division of Revenue Act** providing for division of revenue, consult provincial governments and organised local government and consider recommendations of Financial & Fiscal Commission (section 214(2))
- **Financial & Fiscal Commission**, a constitutional body, makes recommendations, and advises organs of state, on financial & fiscal matters
- Constitution sets out **principles** to take into account in a **Division of Revenue Act**
 - e.g. national interest, need to ensure that provinces & local government are able to deliver basic services, economic disparities within & among provinces and desirability of stable & predictable allocations of revenue shares (section 214(2))

Constitutional requirements (3)

- National, provincial and municipal **budgets & budgetary processes** must promote transparency, accountability & effective financial management of economy, debt & public sector (section 215(1))
- National legislation must determine **form of** national, provincial & municipal **budgets**, when national & provincial budgets must be tabled and that budgets must show source of revenue (section 215(2))
- Budgets must contain
 - estimates of revenue & expenditure, differentiating between capital & current expenditure
 - proposals for financing anticipated deficit for affected period
 - intended borrowing that will increase public debt in next year (section 215(3))

Intergovernmental Fiscal Relations Act, 1997 (1)

- To promote **co-operation between national, provincial & local spheres on fiscal, budgetary & financial** matters, this law provides for
 - Budget Council: Minister of Finance & provincial Ministers (Members of provincial Executive Council) for finance
 - Local Government Budget Forum
 - Minister of Finance
 - provincial Ministers for finance,
 - 5 representatives of national organisation representing local government
 - one representative of each provincial organisation representing local government in province

Intergovernmental Fiscal Relations Act, 1997 (2)

- Regarding Division of Revenue Bill, it sets out
 - Financial & Fiscal Commission's role
 - time frames for submission of Commission's recommendations to Parliament & Minister of Finance
 - consultation with Commission before tabling of Division of Revenue Bill
 - content of memorandum accompanying Bill, namely how constitutional criteria & Commission's recommendations were taken into account in Bill
 - process for determination of equitable share raised nationally

Money Bills & Money Bills Amendment Procedure and Related Matters Act, 2009 (1) – “Money Bills Amendment Act”

- Constitution sets out **different procedures** to be followed in **Parliament for different kinds of Bills** (e.g. constitutional amendment Bills, money Bills, Bills regarding concurrent national & provincial functions and exclusive provincial functions)
- A **money Bill** is a Bill which-
 - ✓ appropriates money
 - ✓ imposes national taxes, levies, duties or surcharges
 - ✓ abolishes/reduces, or grants exemptions from, any national taxes, levies, duties or surcharges
 - ✓ authorises direct charges against National Revenue Fund (except Division of Revenue Bill)

Money Bills Amendment Act (2)

- **Money Bills Amendment Act**, a law required by Constitution, provides procedure for Parliament **to amend money Bills** (section 77(3))
- Key provisions of Moneys Bills Amendment Act
 - Establishment of Parliamentary Appropriation Committees
 - Procedures before introduction of national budget
 - Medium Term Budget Policy Statement
 - Adopting fiscal framework and revenue proposals
 - Introduction & passing of Division of Revenue Bill & Appropriation Bill
 - Passing revenue/taxation Bills
 - Changes mid-financial year: National adjustments budget, revised fiscal framework, Adjustments Appropriation Bill & Division of Revenue Amendment Bill
 - Establishment of Parliamentary Budget Office

Money Bills Amendment Act (3) -Committees

- Each House of Parliament must establish Committee on Finance & Committee on Appropriations
- Committee on Finance deal with
 - national macro-fiscal policy
 - amendments to fiscal framework, revenue proposals and Bills
- Committee on Appropriations deal with
 - amendments to Division of Revenue Bill, Appropriation Bill and other appropriation Bills
 - recommendations by Financial & Fiscal Commission and other parliamentary committees

Money Bills Amendment Act (4) – Assessment of departments & reports

- National Assembly (one House of Parliament), through its Portfolio Committees, must annually assess performance of each national department with reference to-
 - medium-term estimates of expenditure, strategic priorities, measurable objectives, strategic plan, expenditure report published by National Treasury, financial statements, annual report, reports of Standing Committee on Public Accounts & other information before Parliament
- Portfolio Committee must table in National Assembly budget review & recommendation report for each department which
 - assesses department's service delivery performance subject to available resources
 - assesses effectiveness & efficacy of department's use of resources & forward allocation of resources
 - may make recommendations on forward use of funds
- Report to be submitted National Assembly after adoption of Appropriation Bill & before adoption of reports on Medium Term Budget Policy Statement

Money Bills Amendment Act (5) - Medium Term Budget Policy Statement (MTBPS)

- Submitted to Parliament at least 3 months before budget
- Proposed fiscal framework, explanation of macro-fiscal policy, macro projections & assumptions - referred to Committees on Finance
- Committees of Finance must table reports on fiscal framework, including amendments
- Spending priorities, proposed division of revenue and proposed conditional grants - referred to Committees on Appropriations
- Committees on Appropriations to table report on proposed division of revenue, and conditional grant allocations, including amendments to division of revenue
- After adoption, reports submitted to Minister of Finance

Money Bills Amendment Act (6) – Introduction of Bills & Budgets (also requirements in Constitution (s215(3)) & Public Finance Management Act)

- Minister of Finance must table national annual budget at same time as Appropriation Bill & Division of Revenue Bill. Budget must include
 - proposed **3 year fiscal framework**
 - key **macroeconomic assumptions**
 - **tax & other revenue proposals** for financial year & two subsequent years
 - estimates of revenue & expenditure, differentiating between capital & current expenditure
 - estimate of aggregate general government & public sector **debt levels** in short, medium & long term
 - estimate & breakdown of **contingent liabilities** for financial year & two subsequent years
 - estimates on interest and debt servicing charges & **repayment on loans**
 - proposals for financing anticipated **deficit** for financial year
 - indication of intentions regarding **borrowing & other forms of public liability** that will increase public debt in financial year & future years

Money Bills Amendment Act (7) – passing of Bills

- After adoption of fiscal framework, Division of Revenue Bill referred to Committee on Appropriations
 - amendments must be consistent with approved fiscal framework
- Committees may not consider amendments to Appropriation Bill until after Division of Revenue Bill is passed
 - amendments must be consistent with fiscal framework & Division of Revenue Act
- Parliamentary rules must provide for **public hearings** on Appropriation Bills
- Minister of Finance & responsible members of Cabinet allowed period to respond to proposed amendments
- Parliament must approve Appropriation Bill within 4 months of start of financial year

Money Bills Amendment Act (8) – national adjustments budget

- Adjustments Appropriation Bill & Division of Revenue Amendment Bill must be tabled at same time, together with amended fiscal framework, if required
- Public Finance Management Act sets out what may be contain in national adjustments budget, e.g.
 - adjustments required due to **significant & unforeseeable economic & financial events** affecting fiscal targets set by annual budget
 - **unforeseeable & unavoidable expenditure**
 - **roll over of unspent funds** from previous year (section 30(2))

Public Finance Management Act & Municipal Finance Management Act

- Public Finance Management Act, applicable to **national & provincial spheres of government**
 - provides that Parliament & each provincial legislature must appropriate money for each financial year (section 26)
 - enables expenditure before annual budget is passed (section 29)
 - requires that National Treasury publish **monthly statement of actual revenue and expenditure** with regard to National Revenue Fund (section 32)
- Municipal Finance Management Act regulates in detail budgets of local government/municipalities (sections 15-33)

THANK YOU