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## THE PRESIDENCY

No. 438

21 April 2009

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

**No. 10 of 2009: Financial Management of Parliament Act, 2009.**



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

(English text signed by the President.)  
(Assented to 19 April 2009.)

# ACT

**To regulate the financial management of Parliament in a manner consistent with its status in terms of the Constitution; to ensure that all revenue, expenditure, assets and liabilities of Parliament are managed efficiently, effectively and transparently; to provide for the responsibilities of persons entrusted with financial management in Parliament; to provide financial management norms and standards for provincial legislatures; and to provide for matters connected therewith.**

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**PREAMBLE**

Recognising—

**that Parliament must be governed by the democratic values and principles in the Constitution**

Therefore in order to—

- **promote and maintain a high standard of professional ethics in the financial management of Parliament;**
- **promote the efficient, economic, and effective use of resources allocated to Parliament;**
- **ensure the transparent, accountable and sound management of the revenue, expenditure, assets and liabilities of Parliament;**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**CHAPTER 1****INTERPRETATION AND OBJECTS****Definitions**

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

“**Accounting Officer**” means the Secretary to Parliament, and includes, where appropriate, a person acting as the Accounting Officer;

“**Accounting Standards Board**” means the board established in terms of section 87 of the Public Finance Management Act;

“**annual national budget**” means the annual national budget referred to in section 27(1) of the Public Finance Management Act;

“**annual report**”, means the annual report referred to in section 55;

“**approved budget**” means the total amount of funds that Parliament has—

(a) appropriated from the National Revenue Fund for Parliament in a vote on a national appropriation Act; and

(b) approved from Parliament's own funds in terms of section 18(1)(b);

“**Executive Authority**” means the Speaker of the National Assembly and the Chairperson of the National Council of Provinces, acting jointly;

“**financial year**” means a year ending 31 March;

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

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

“**oversight mechanism**” means the oversight mechanism contemplated in section 4;

“**main division**” means one of the main segments into which Parliament's

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- approved budget is divided and which specifies the total amount which is appropriated and approved for the items under that segment;
- “month”** means one of the 12 months of a calendar year;
- “official”** means an employee of Parliament or any other person to whom any function is delegated in terms of this Act; 5
- “overspending”**—
- (a) in relation to the approved budget of Parliament, means causing expenditure to exceed the amount appropriated and approved for the approved budget; or
- (b) in relation to a main division within the approved budget of Parliament, means causing expenditure under the main division to exceed the amount appropriated or approved for that main division; 10
- “a person in the employ of the state”** means
- (a) a member of the board of directors of any municipal entity;
- (b) an official of any municipality or municipal entity;
- (c) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act; 15
- (d) a member of the accounting authority of any national or provincial public entity; or
- (e) an employee of Parliament or a provincial legislature; 20
- “prescribe”** means prescribe by regulation in accordance with section 65;
- “Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- “quarter”** means any of the following periods in a financial year:
- (a) 1 April to 30 June; 25
- (b) 1 July to 30 September;
- (c) 1 October to 31 December; or
- (d) 1 January to 31 March;
- “standards of generally recognised accounting practice”** means an accounting practice complying with the standards issued by the Minister of Finance on the advice of the Accounting Standards Board; 30
- “this Act”** includes regulations issued in terms of section 65 and Schedules to the Act;
- “unauthorised expenditure”** means—
- (a) overspending of Parliament’s approved budget or a main division within that budget; 35
- (b) any expenditure from Parliament’s approved budget or a main division within that budget for a purpose unrelated to the approved budget or main division, subject to section 22; and
- (c) any expenditure of donor funds for a purpose not specified in the agreement with the donor; 40
- “vote”** means that portion of Parliament’s budget which forms part of an appropriation Act and which specifies the total amount of funds to be appropriated from the National Revenue Fund for Parliament.

## **Objects of this Act** 45

2. The objects of this Act are—
- (a) to ensure transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of Parliament;
- (b) to ensure a consultative relationship between Parliament and the National Treasury, conducted at a high level and based on respect for— 50
- (i) the constitutional status of Parliament;

- (ii) the constitutional requirements for the tabling of money bills;
- (iii) budget processes, standards of generally recognised accounting practice, uniform expenditure classifications and the treasury norms and standards established in terms of the Public Finance Management Act; and 5
- (iv) the fiscal policy of the national government;
- (c) to provide the National Treasury with —
  - (i) an opportunity to make comments on proposed annual budgets and adjustments budgets of Parliament;
  - (ii) information on the proposed annual budget and adjustments budgets of Parliament for inclusion in the national annual budget and adjustments budgets; and 10
  - (iii) regular information on expenditure by Parliament;
- (d) to provide for parliamentary oversight of Parliament's budgeting and expenditure through an appropriate oversight mechanism of Parliament; and 15
- (e) to establish norms and standards for managing the financial affairs of provincial legislatures.

### **Norms and standards for provincial legislatures**

3. Provincial legislatures must adhere to the norms and standards for financial management set out in Schedule 1. 20

## **CHAPTER 2**

### **OVERSIGHT, EXECUTIVE AUTHORITY AND ADMINISTRATION OF ACT**

#### ***Part 1: Oversight mechanism***

#### **Oversight mechanism**

4. (1) An oversight mechanism of Parliament must maintain oversight of the financial management of Parliament by among other things— 25
- (a) considering instructions issued by the Executive Authority in terms of section 37(5);
  - (b) considering the annual report submitted to Parliament in terms of section 60;
  - (c) considering instructions issued by the Executive Authority in terms of section 66; and 30
  - (d) performing any other functions specified in this Act or by the Rules of Parliament, or consistent with the objects of this Act.
- (2) Representation on the oversight mechanism must be in accordance with the Joint Rules of Parliament, except that the members of the Executive Authority, the Deputy Speaker of the National Assembly and the permanent Deputy Chairperson of the National Council of Provinces — 35
- (a) may not be members of the oversight mechanism; and
  - (b) may only participate in the deliberations of the oversight mechanism at the request of the oversight mechanism. 40
- (3) The oversight mechanism may require the Accounting Officer and any other official of Parliament to appear before it.
- (4) The oversight mechanism has the powers that committees of Parliament have under sections 56 and 69 of the Constitution.

#### ***Part 2: Executive Authority*** 45

#### **Executive Authority**

5. (1) The Executive Authority of Parliament is the Speaker of the National Assembly and the Chairperson of the National Council of Provinces, acting jointly.

(2) The Executive Authority is accountable to Parliament for the sound financial management of Parliament.

(3) Members of the Executive Authority must act in accordance with the Code of Ethics in Schedule 2.

### ***Part 3: Administration of Act***

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#### **Accounting Officer**

**6.** (1) The Secretary to Parliament is the Accounting Officer.

(2) The Accounting Officer is accountable to the Executive Authority for the financial management of Parliament.

#### **General financial management functions**

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**7.** The Accounting Officer must ensure that—

- (a) Parliament's resources are used effectively, efficiently, economically and transparently;
- (b) full and proper records of the financial affairs of Parliament are kept;
- (c) Parliament maintains effective, efficient and transparent systems of financial management, risk management, internal control and internal audit; 15
- (d) Parliament complies with any obligations in relation to taxes, levies, duties, pensions, medical aid and auditing that may be imposed by legislation;
- (e) unauthorised, irregular and fruitless and wasteful expenditure and other losses are prevented, and appropriate steps are taken where such expenditure has occurred; 20
- (f) disciplinary action is instituted against any employee of Parliament who has allegedly committed an act of financial misconduct; and
- (g) when appropriate, criminal proceedings are initiated against any person who has allegedly committed an offence in terms of section 69. 25

#### **Performance of Accounting Officer**

**8.** (1) The Executive Authority and the Accounting Officer must conclude a written performance agreement for the Accounting Officer annually.

(2) The performance agreement referred to in subsection (1) must—

- (a) be concluded within a reasonable time after the Accounting Officer is employed and thereafter within one week after the start of each financial year; 30
- (b) specify performance standards linked to the objectives and targets of Parliament's performance plan for the financial year;
- (c) provide for an annual assessment of the Accounting Officer's performance by the Executive Authority; and 35
- (d) specify the consequences of sub-standard performance.

(3) The provisions of this Act conferring responsibilities on the Accounting Officer are part of the performance agreement of an Accounting Officer.

(4) The annual assessment of the Accounting Officer's performance must take cognisance of the audit report on the annual financial statements of Parliament. 40

#### **Acting Accounting Officer**

**9.** If the post of Accounting Officer is vacant, or if the Accounting Officer is unable to perform the functions of the post, those functions must be performed by another official designated in writing by the Executive Authority.

### Delegation of powers and duties by Accounting Officer

- 10.** (1) The Accounting Officer may delegate any powers or duties conferred on the Accounting Officer by this Act to an official of Parliament in accordance with a system of delegation.
- (2) The Accounting Officer must develop the system of delegation in consultation with the Executive Authority and it must— 5
- (a) maximise administrative and operational efficiency; and
  - (b) provide adequate checks and balances in the financial management of Parliament.
- (3) The Accounting Officer must regularly review delegations made in terms of subsection (1) and, if necessary, amend or withdraw any of those delegations. 10
- (4) A delegation in terms of subsection (1)—
- (a) must be in writing;
  - (b) is subject to any limitations and conditions the Accounting Officer may impose; 15
  - (c) may be to an individual or to the holder of a specific post in the administration of Parliament;
  - (d) may authorise that official to sub-delegate, in writing, the delegated power or duty to another official, or to the holder of a specific post in the administration of Parliament; and 20
  - (e) does not divest the Accounting Officer of responsibility for the exercise of the delegated power or the performance of the delegated duty.
- (5) The Accounting Officer may confirm, vary or revoke any decision taken by an official in terms of a delegation under subsection (1), subject to any rights that may have become vested as a consequence of the decision. 25

### Responsibilities of officials

- 11.** (1) Every official who exercises financial management responsibilities must—
- (a) comply with the provisions of this Act, to the extent applicable to that official;
  - (b) comply with the terms of any delegation in terms of section 10; and
  - (c) take all reasonable steps within that official's area of responsibility to ensure that— 30
    - (i) Parliament's system of financial management and internal control is implemented diligently;
    - (ii) Parliament's financial and other resources are used effectively, efficiently, economically and transparently; 35
    - (iii) any unauthorised expenditure, irregular expenditure, fruitless and wasteful expenditure and other losses are prevented, and, when such expenditure or losses occur, are reported to the Accounting Officer;
    - (iv) all revenue due to Parliament is collected; and 40
    - (v) Parliament's assets and liabilities are managed effectively, and that assets are safeguarded and maintained to the extent necessary.

### Fiduciary responsibilities

- 12.** (1) The Accounting Officer and other officials with responsibility under this Act must— 45

- (a) act with fidelity, honesty, integrity and in the best interests of Parliament in managing its financial affairs;
  - (b) disclose all material facts which are available to that person or reasonably discoverable, and which in any way might influence any decision or action in terms of this Act; and 5
  - (c) seek to prevent any prejudice to the financial interests and good reputation of Parliament.
- (2) For the purposes of subsection 1(b), any disclosure must be made—
- (a) in the case of the Accounting Officer to the Executive Authority; and
  - (b) in the case of any other person, to the Accounting Officer. 10
- (3) No person having any responsibility under this Act—
- (a) may act in a way that is inconsistent with the Act; or
  - (b) may use their position or any confidential information obtained in the exercise of their responsibilities for personal gain or to benefit improperly themselves or any other person. 15

## CHAPTER 3

### PLANNING AND BUDGETING

#### Preparation of strategic plan, annual performance plan and budget

- 13.** The Executive Authority must—
- (a) oversee the preparation of Parliament’s strategic plan, annual performance plan, budget and adjustments budgets in accordance with this Chapter; and
  - (b) table the strategic plan and annual performance plan in Parliament. 20

#### Strategic plan

- 14.** (1) Within six months after an election of the National Assembly, or by another date determined by Parliament, the Accounting Officer must prepare and present to the Executive Authority a draft strategic plan for Parliament’s administration. 25
- (2) The strategic plan for Parliament’s administration must—
- (a) cover the following five years or other period determined by Parliament;
  - (b) specify the priorities of Parliament’s administration for the period of the plan;
  - (c) include objectives and outcomes for each programme of Parliament; 30
  - (d) include multi-year projections of all revenue and expenditure; and
  - (e) include performance measures and indicators for assessing the administration’s performance in implementing the strategic plan.

#### Annual performance plan

- 15.** (1) At least ten months prior to the start of the financial year, the Accounting Officer must prepare a draft annual performance plan for Parliament and present it to the Executive Authority. 35
- (2) The annual performance plan must—
- (a) cover the following financial year and the two financial years thereafter or other period determined by Parliament; 40
  - (b) indicate any changes to Parliament’s priorities as set out in the strategic plan prepared in terms of section 14;

- (c) update the projections of revenue and expenditure presented in the strategic plan;
- (d) specify performance targets related to each of the performance measures and indicators for assessing Parliament's performance in achieving the objectives and outcomes detailed in the strategic plan; and 5
- (e) provide details of Parliament's donor funded projects, including— 10
  - (i) the donors and the amounts being given;
  - (ii) the purposes of the projects; and
  - (iii) performance measures and indicators for assessing Parliament's performance in achieving the purposes of the projects.

### **Annual Budget**

**16.** (1) At least ten months prior to the start of the financial year, the Accounting Officer must prepare a draft budget for Parliament and present it to the Executive Authority.

- (2) Parliament's budget must— 15
  - (a) cover the following financial year and the two financial years thereafter or other period determined by Parliament;
  - (b) specify Parliament's expected revenues distinguishing between— 20
    - (i) funds to be appropriated through the annual national budget;
    - (ii) funds that are a direct charge against the National Revenue Fund; and
    - (iii) funds derived from Parliament's own revenue sources, excluding donor funds;
  - (c) specify Parliament's proposed expenditure requirements per main division within the budget, distinguishing between the sources of funds identified in paragraph (b); 25
  - (d) specify the purpose of each main division within the budget and provide explanations and other information substantiating the amounts proposed in terms of paragraphs (b) and (c);
  - (e) specify the allocations to Members of Parliament and political parties made in terms section 34, providing details of the different purposes for which allocations are made and the amounts allocated for such purposes; 30
  - (f) provide details of all transfers to other entities;
  - (g) contain a schedule of planned expenditure under Parliament's donor funded projects; and 35
  - (h) be in accordance with the format prescribed under section 65, for the purpose of maintaining consistency with the format followed by other organs of state.

### **Submission of drafts of strategic plan, annual performance plan and budget**

- 17.** The Executive Authority must— 40
- (a) after consultation with the Minister of Finance, determine a process for submitting Parliament's budget and adjustments budget to the National Treasury;
  - (b) consult with the Minister of Finance before the budget and adjustments budget are submitted to the National Treasury;
  - (c) submit the budget and adjustments budget to the National Treasury; and 45
  - (d) represent Parliament in any discussions with the Minister of Finance on any aspect of Parliament's budget or adjustments budget.

### Annual appropriations and approvals

- 18.** (1) For each financial year, Parliament must—
- (a) appropriate funds contemplated in section 16(2)(b)(i) in the annual national budget; and
  - (b) approve the use of the funds contemplated in section 16(2)(b)(iii). 5
- (2) Any revision of an appropriation in terms of subsection (1)(a) must be made—
- (a) by a national adjustments budget referred to in section 30 of the Public Finance Management Act; and
  - (b) in accordance with the procedure set out in section 17(2).
- (3) Any revision of an approval in terms of subsection (1)(b) must be approved by 10 Parliament.

### Expenditure before Parliament's annual budget is passed

- 19.** (1) If Parliament does not pass its annual budget before the start of the financial year to which it relates—
- (a) funds may be withdrawn from the National Revenue Fund for the require- 15 ments of Parliament during that financial year as a direct charge against the Fund until the budget is passed; and
  - (b) funds from Parliament's own revenue sources may be used to meet the requirements of Parliament.
- (2) Funds made available to Parliament in terms of subsection (1) may not— 20
- (a) during the first four months of the financial year, exceed forty-five per cent of the total amount in the previous approved budget;
  - (b) during each of the following months, exceed ten per cent of the total amount in the previous approved budget; or
  - (c) in aggregate, exceed the total amount appropriated and approved in the 25 previous approved budget.
- (3) The funds provided for in subsection (1) are not additional to funds appropriated or approved for the relevant financial year, and any funds withdrawn or used in terms of that subsection must be regarded as forming part of the funds appropriated and approved in the budget for that financial year. 30

### Unauthorised expenditure

- 20.** (1) This section applies to any unauthorised expenditure incurred by Parliament, other than the unauthorised expenditure of donor funds.
- (2) Unauthorised expenditure incurred by Parliament does not become a charge 35 against the National Revenue Fund, unless—
- (a) the expenditure is an overspending of Parliament's approved budget and Parliament appropriates an additional amount to cover the overspending; or
  - (b) the expenditure is unauthorised for another reason and Parliament authorises the expenditure as a direct charge against the National Revenue Fund.
- (3) Parliament must advise the National Treasury of any unauthorised expenditure 40 that is authorised in terms of subsection (2).
- (4) If Parliament authorises unauthorised expenditure in terms of subsection (2) but does not appropriate an additional amount to cover the amount of the unauthorised expenditure, the unauthorised expenditure becomes a charge against Parliament's own 45 funds.
- (5) Any unauthorised expenditure that Parliament does not approve must be recovered from the person responsible for the unauthorised expenditure.

### Unauthorised expenditure of donor funds

- 21.** (1) Any unauthorised expenditure of donor funds that Parliament approves becomes a charge against Parliament's own funds. 50

(2) Any unauthorised expenditure of donor funds that Parliament does not approve must be recovered from the person responsible for the unauthorised expenditure.

#### **Virement between main divisions within the approved budget**

**22.** (1) The Accounting Officer may use a saving in the total amount appropriated or approved under a main division within Parliament's approved budget towards defraying excess expenditure under another main division within the approved budget, unless the Executive Authority directs otherwise. 5

(2) The Accounting Officer must obtain the written permission of the Executive Authority to defray excess expenditure contemplated in subsection (1) from the savings of an amount— 10

- (a) specifically and exclusively appropriated or approved for a purpose mentioned under a main division within the approved budget;
- (b) appropriated or approved for transfer to another institution; or
- (c) appropriated or approved for capital expenditure when used to defray current expenditure. 15

(3) The amount of a saving under a main division of Parliament's approved budget that may be used in terms of subsection (1), may not exceed eight per cent of the amount appropriated and approved under that main division.

(4) This section does not authorise the use of a saving of an amount that is a direct charge against the National Revenue Fund in order to supplement Parliament's appropriated funds. 20

(5) The Executive Authority may make regulations or issue instructions in accordance with sections 65 and 66 respectively concerning the application of this section.

#### **Treatment of unspent funds**

**23.** (1) Parliament is not required to return to the National Revenue Fund any money appropriated or approved for a particular financial year but not spent in that year. 25

(2) Funds appropriated for, but not spent in, a particular financial year must be regarded as funds derived from Parliament's own revenue sources, and the approval of their use in subsequent financial years must be in accordance with section 18(1)(b).

(3) Funds derived from Parliament's own revenue sources that are approved for a particular financial year, but not spent in that year, must be approved for use in subsequent financial years in accordance with section 18(1)(b). 30

### **CHAPTER 4**

#### **CASH MANAGEMENT AND INVESTMENT**

##### **Cash management and investment policy** 35

**24.** (1) The Executive Authority must prescribe in accordance with section 65 an appropriate policy—

- (a) to ensure efficient and effective banking and cash management; and
- (b) for investing money not immediately required.

(2) The Accounting Officer is responsible for establishing systems and procedures for the effective implementation of the policy prescribed in terms of subsection (1). 40

**Opening of bank accounts**

- 25.** (1) The Accounting Officer, with the approval of the Executive Authority, and in accordance with the policy referred to in section 24, must open and maintain—
- (a) a bank account into which all money received by Parliament must promptly be paid; and 5
  - (b) such other bank accounts as are necessary for the effective and efficient management of Parliament's funds.
- (2) Parliament may not open a bank account—
- (a) abroad;
  - (b) with an institution not registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); or 10
  - (c) otherwise than in the name of Parliament.
- (3) A bank account opened in terms of this section does not form part of the National Revenue Fund.

**Control of bank accounts** 15

- 26.** The Accounting Officer—
- (a) must administer all of Parliament's bank accounts;
  - (b) is accountable to the Executive Authority for Parliament's bank accounts; and
  - (c) must enforce compliance with section 27.

**Withdrawals from bank accounts** 20

- 27.** (1) Only the Accounting Officer, or an official to whom that power has been delegated in terms of section 10, may withdraw money, or authorise the withdrawal of money, from any of Parliament's bank accounts.
- (2) A delegation in terms of subsection (1) must be in accordance with the policy made in terms of section 24. 25
- (3) Money may be withdrawn from a bank account of Parliament only for—
- (a) defraying expenditure in accordance with Parliament's approved budget or authorised for Parliament as a direct charge against the National Revenue Fund;
  - (b) defraying expenditure incurred in relation to a donor funded project; 30
  - (c) refunding money incorrectly paid into a bank account;
  - (d) making other refunds approved by the Executive Authority; or
  - (e) cash management or investment purposes in accordance with the policy made in terms of section 24.

**Restrictions on borrowing, guarantees and other transactions** 35

- 28.** (1) Parliament may not—
- (a) borrow money;
  - (b) issue a guarantee or security; or
  - (c) enter into any other similar transaction that binds or may bind it to any future financial commitment. 40
- (2) Neither the state nor Parliament is bound by a loan, guarantee, security or other transaction entered into in breach of subsection (1).
- (3) Subsection (1) does not prevent Parliament from—
- (a) issuing or being bound by guarantees for loans in terms of a housing or motor vehicle scheme administered by Parliament for its employees; 45
  - (b) entering into any operating lease agreement for the use of property or equipment; or

- (c) using credit cards, fleet management cards or other credit facilities repayable within 30 days from the date on which an account is rendered.

### **Requisitioning of funds by Accounting Officer**

29. The Executive Authority must, after consultation with the Minister of Finance, determine a process for requisitioning appropriated funds that provides for sound cash-flow management. 5

## **CHAPTER 5**

### **FINANCIAL MANAGEMENT**

#### **Asset and liability management**

30. (1) The Accounting Officer is responsible for managing— 10  
 (a) Parliament's assets, including safeguarding and maintaining those assets; and  
 (b) Parliament's liabilities.  
 (2) For the purposes of subsection (1), the Accounting Officer must ensure that—  
 (a) Parliament maintains an accounting and information system that accounts for its assets and liabilities; 15  
 (b) Parliament's assets and liabilities are valued in accordance with standards of generally recognised accounting practice; and  
 (c) Parliament maintains a system of internal control of assets and liabilities, including a register of assets and liabilities. 20

#### **Revenue management 20**

31. (1) The Accounting Officer is responsible for managing the revenue of Parliament.  
 (2) For the purposes of subsection (1), the Accounting Officer must ensure that—  
 (a) Parliament has effective revenue collection systems;  
 (b) all money received is deposited promptly into the bank account contemplated by section 25(1)(a); 25  
 (c) Parliament maintains an accounting and information system which—  
     (i) recognises revenue when it is earned or becomes due; and  
     (ii) accounts for receipts of revenue;  
 (d) Parliament maintains a system of internal control in respect of revenue; and  
 (e) all revenue received by Parliament is reconciled at least on a weekly basis. 30

#### **Management of debtors**

32. (1) The Accounting Officer must take effective and appropriate steps to collect all monies due to Parliament including—  
 (a) maintaining proper accounts and records of all debtors, including amounts received in part payment; and 35  
 (b) if appropriate, instituting legal proceedings.  
 (2) The Accounting Officer may settle or write off a debt only in accordance with a policy prescribed in accordance with section 65.  
 (3) Interest must be charged on any debt owed to Parliament in accordance with a policy prescribed in accordance with section 65. 40

### **Expenditure management**

- 33.** (1) The Accounting Officer is responsible for managing the expenditure of Parliament.
- (2) For the purpose of subsection (1), the Accounting Officer must ensure that —
- (a) Parliament maintains an effective system of expenditure control, which includes procedures for the approval and authorisation of the withdrawal and payment of funds; 5
  - (b) Parliament maintains an accounting and information system which—
    - (i) recognises expenditure when it is incurred; 10
    - (ii) accounts for creditors of Parliament; and
    - (iii) accounts for payments made by Parliament;
  - (c) Parliament maintains a system of internal control in respect of creditors and payments;
  - (d) Parliament makes payment—
    - (i) directly to the person to whom it is due unless agreed otherwise or for good reason; and 15
    - (ii) either electronically or by way of non-transferable cheques, but cash payments and payments by way of cash cheques may be made for exceptional reasons, and only up to a prescribed limit;
  - (e) all amounts owed by Parliament are paid within 30 days of receiving the relevant invoice or statement, unless—
    - (i) the amount is unclear or disputed; or 20
    - (ii) it is agreed otherwise; and
  - (f) all financial accounts of Parliament are closed monthly and reconciled with its records. 25

### **Support for Members and political parties**

- 34.** (1) The Executive Authority must make regulations concerning the allocation and use of any funds provided by Parliament to political parties or to Members of Parliament.
- (2) Before making regulations in terms of subsection (1)— 30
- (a) the Speaker of the National Assembly must consult with the political parties represented in the National Assembly; and
  - (b) if delegations in, or individual delegates to, the National Council of Provinces are to receive funds, the Chairperson of the National Council of Provinces must consult with the delegations in the Council. 35
- (3) The regulations must—
- (a) regulate the allocation of funds in an equitable manner;
  - (b) specify the purposes for which funds may be used;
  - (c) provide for the prompt payment of funds into a bank account;
  - (d) stipulate the responsibilities of the Members of Parliament and parties to account for allocated funds; 40
  - (e) establish a procedure according to which Members of Parliament and parties account for the use of funds;
  - (f) prescribe a format for financial statements for accounting for the use of funds;
  - (g) require parties to submit audited financial statements in the prescribed format to the Accounting Officer; 45
  - (h) provide for the recovery of funds spent irregularly; and
  - (i) establish a dispute resolution procedure.

- (4) The regulations must authorise the Accounting Officer to withhold funds allocated to a party or a Member of Parliament—
- (a) until the Accounting Officer receives—
    - (i) adequate information concerning the ability of the party or Member to manage and account for the funds; 5
    - (ii) any outstanding audit reports on the use of parliamentary funds by the party or Member; and
    - (iii) any other information reasonably necessary to confirm that the party or Member is entitled to the funds; and
  - (b) in instances of a qualified audit report in respect of such funding, until adequate measures are put in place to rectify the qualification. 10
- (5) Each party represented in the Assembly must be provided with financial and administrative assistance in proportion to its representation to enable it and its leader to perform their functions in Parliament effectively.

### **Transfers** 15

- 35.** (1) Before transferring any funds from Parliament to any other entity, the Accounting Officer must—
- (a) obtain a written assurance from the entity that it implements effective, efficient and transparent financial management and internal control systems; 20
  - or
  - (b) render the transfer subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems.
- (2) (a) Subsection (1) does not apply to transfers to entities in other countries or to international institutions. 25
- (b) Any transfer contemplated by sub-paragraph (a) is governed by the instrument regulating the relationship between South Africa and that entity or institution.

### **Budget implementation**

- 36.** The Accounting Officer is responsible for implementing Parliament's budget and must ensure that— 30
- (a) spending is in accordance with the approved budget; and
  - (b) revenue and expenditure are properly monitored.

### **Executive directive with financial implications**

- 37.** (1) A directive by the Executive Authority that has financial implications must — 35
- (a) be in writing; and
  - (b) be addressed to the Accounting Officer.
- (2) If implementation of a directive contemplated by subsection (1) is likely to result in unauthorised expenditure, the Accounting Officer—
- (a) may not proceed with the implementation of the directive; and
  - (b) must inform the Executive Authority in writing of the likelihood that the directive may lead to unauthorised expenditure. 40
- (3) If the Accounting Officer proceeds to implement a directive contemplated in subsection (2), without receiving a further instruction from the Executive Authority in terms of subsection (5), and it results in unauthorised expenditure, the Accounting Officer is responsible for such unauthorised expenditure. 45
- (4) An official may not implement a directive by the Executive Authority that may have financial implications, unless the Accounting Officer issues a written instruction to proceed with implementation.

- (5) The Executive Authority may instruct the Accounting Officer to proceed with the implementation of a directive contemplated in subsection (2) only if it is to provide for—
- (a) an expenditure of an exceptional nature which is currently not provided for in Parliament’s budget and which cannot, without serious prejudice to the interests of Parliament, be postponed to a future parliamentary appropriation or approval of funds; or 5
  - (b) an unforeseeable and unavoidable expenditure approved by Parliament.
- (6) If the Executive Authority instructs the Accounting Officer to proceed with the implementation of a directive contemplated in subsection (2), the Executive Authority must specify the instruction and the reasons for that instruction in writing and without delay— 10
- (a) give a copy to the Accounting Officer; and
  - (b) table a copy in Parliament for prompt referral to the oversight mechanism.
- (7) On receipt of a written instruction contemplated in subsection (6), the Accounting Officer must file a copy with the Auditor-General promptly. 15
- (8) If Parliament does not authorise the expenditure arising from an instruction contemplated in subsection (6), the Executive Authority is responsible for the unauthorised expenditure and it must be recovered from the members of the Executive Authority in their personal capacities. 20

### **Impending shortfalls and overspending**

- 38.** The Accounting Officer must—
- (a) report in writing to the Executive Authority—
    - (i) any impending shortfalls in budgeted revenue and overspending of a main division within Parliament’s vote; and 25
    - (ii) any steps taken to prevent or rectify such shortfalls or overspending; and
  - (b) comply with any remedial measures imposed by the Executive Authority to prevent or rectify such shortfalls or overspending.

## **CHAPTER 6** 30

### **SUPPLY CHAIN MANAGEMENT**

#### **Application of this Chapter**

- 39.** This Chapter applies to—
- (a) the procurement by Parliament of goods and services; and
  - (b) the disposal and letting of Parliament’s assets, including the disposal of goods no longer required. 35

#### **Supply chain management policy**

- 40.** The Executive Authority must prescribe in accordance with section 65 a supply chain management policy which—
- (a) is fair, equitable, transparent, competitive and cost effective; 40
  - (b) promotes high ethical standards and prohibits fraud, corruption, favouritism and unfair and irregular practices;
  - (c) requires disclosure of and deals appropriately with conflicts of interests;
  - (d) establishes appropriate supply chain management processes and procedures, including— 45
    - (i) demand management;
    - (ii) acquisition management;

- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) regular assessment of supply chain performance;
- (e) complies with other applicable legislation;<sup>1</sup> and 5
- (f) covers at least the matters specified in Schedule 3 to this Act.

### **Implementation of supply chain management policy**

- 41.** The Accounting Officer must—
- (a) implement the supply chain management policy;
  - (b) take all reasonable steps to ensure that proper mechanisms are in place to minimise dishonesty, favouritism and unfair and irregular practices; 10
  - (c) ensure that contracts concluded for the supply of services and goods are properly enforced;
  - (d) monitor the performance of contractors; and
  - (e) regularly report to the Executive Authority on— 15
    - (i) the management of contracts and the performance of contractors; and
    - (ii) the implementation of the policy.

### **Unsolicited offers**

- 42.** (1) The Executive Authority may prescribe a policy in accordance with section 65 20 for considering offers to supply goods or services that are unsolicited or are made otherwise than in accordance with the supply chain management policy contemplated in section 40.
- (2) The Accounting Officer—
- (a) is not obliged to consider any offer contemplated in subsection (1); and 25
  - (b) may consider an offer contemplated in subsection (1) only in accordance with the prescribed policy.

### **Tenders not recommended**

- 43.** (1) The Accounting Officer must notify the Auditor-General and the Executive Authority in writing if a contract is concluded in respect of a tender, quotation, or other bid other than the one recommended. 30
- (2) Subsection (1) does not apply if a contract was concluded in order to rectify an irregularity.

### **Members of Parliament barred from serving on tender committees**

- 44.** No Member of Parliament may— 35
- (a) be a member of a committee evaluating or approving tenders, quotations, contracts or other bids for Parliament;
  - (b) attend any meeting of such committee as an observer; or
  - (c) participate in any other way in evaluating or approving tenders, quotations, contracts or other bids for Parliament. 40

### **Interference**

- 45.** No person may—
- (a) interfere with, or improperly influence, the supply chain management system of Parliament;

<sup>1</sup> This includes the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).

- (b) impede the Accounting Officer in fulfilling the responsibilities of the Accounting Officer in terms of this Chapter; or
- (c) amend or tamper with any tender, quotation, contract or bid after its submission.

**Prohibition on contracts** 5

- 46.** No contract to provide goods or services to Parliament may be awarded to—
- (a) a Member of Parliament or a member of the Cabinet;
  - (b) a Member of a provincial legislature or a member of a provincial Executive Council;
  - (c) a Municipal Councillor; 10
  - (d) a person in the employ of the State whose participation in bidding for the contract may result in a conflict of interest; or
  - (e) any entity in which a person mentioned in paragraphs (a) to (d) is a Director or has a controlling or other substantial interest.

**CHAPTER 7** 15

**AUDIT COMMITTEE AND INTERNAL AUDIT UNIT**

**Establishment of audit committee**

- 47.** (1) Parliament must have an audit committee appointed by the Executive Authority.
- (2) The committee must— 20
- (a) be constituted in a manner that ensures its independence; and
  - (b) consist of at least three persons with appropriate experience and knowledge.
- (3) More than half of the members of the committee must be individuals who—
- (a) are not employed by Parliament or the state and are not Members of Parliament, a provincial legislature or a municipal council; and 25
  - (b) have no personal or financial interest in any matter related to Parliament.
- (4) The Executive Authority must appoint one of the members contemplated by subsection (3), who is knowledgeable of the status of the position and have the requisite business, financial and leadership skills, as the chairperson of the committee.
- (5) The terms of appointment and remuneration of members of the audit committee 30 contemplated by subsection (3) must be consistent with the requirements for audit committees of other organs of state, taking into account tariffs determined by the South African Institute of Chartered Accountants in consultation with the Auditor-General, and tariffs determined by the National Treasury.
- (6) A member of the audit committee who has a personal or financial interest in any 35 matter before the committee must disclose that interest and withdraw from the proceedings of the committee when that matter is considered.

**Functions of audit committee**

- 48.** (1) The audit committee must—
- (a) establish an audit charter to— 40
    - (i) guide its audit approach and, in consultation with the internal audit unit, that of the internal audit unit;
    - (ii) set out its operating procedures; and
    - (iii) determine the rules that govern its relationship with the internal audit unit and the Accounting Officer; 45

- (b) carry out such investigations into Parliament's financial and risk management as it considers necessary or as requested by the Accounting Officer;
  - (c) in the annual report of Parliament, comment on—
    - (i) the effectiveness of internal control;
    - (ii) the quality of financial management and any reports compiled by the Accounting Officer in terms of this Act; and
    - (iii) the quality of the annual financial statements;
  - (d) report to and advise the Accounting Officer on matters relating to the financial and risk management of Parliament; and
  - (e) communicate any concerns it deems necessary to the Executive Authority and the Auditor-General.
- (2) In performing its functions, the audit committee—
- (a) has access to the financial records and other relevant information of Parliament;
  - (b) must meet as often as required to perform its functions, but at least four times a year; and
  - (c) must liaise with—
    - (i) the internal audit unit of Parliament; and
    - (ii) the person designated by the Auditor-General to audit the financial statements of Parliament.

### **Allegations against Accounting Officer**

**49.** If the audit committee becomes aware of information implicating the Accounting Officer in fraud, corruption or gross negligence, it must report this promptly to the Executive Authority and the oversight mechanism.

### **Internal audit unit**

- 50.** (1) The Accounting Officer must establish Parliament's internal audit unit which must conduct internal audits in accordance with the standards set by the Institute of Internal Auditors, for the purpose of maintaining consistency with internal audit functions in other organs of state.
- (2) The unit must prepare for the approval of the audit committee—
- (a) operating procedures to guide its relationship with the administration of Parliament;
  - (b) a three-year risk-based audit plan; and
  - (c) an internal audit programme for each financial year setting out the proposed scope of each audit.
- (3) The unit must report quarterly to the Accounting Officer and the audit committee on its performance against the annual audit plan.
- (4) The unit must—
- (a) be independent of the activities that are audited; and
  - (b) have access to the financial records and other relevant information of Parliament.

## CHAPTER 8

### REPORTING AND AUDITING

#### *Part 1: In-year reporting*

#### **Monthly financial statements**

- 51.** (1) Within fifteen days after the end of each month, the Accounting Officer must submit a financial statement to the Executive Authority and the National Treasury, in a format determined by the Executive Authority, reflecting the state of Parliament's finances for that month and for the financial year to date and specifying— 5
- (a) actual revenue by revenue source; 10
  - (b) actual expenditure by main division; 10
  - (c) actual capital expenditure by main division; and
  - (d) when necessary, an explanation of—
    - (i) any material variances from Parliament's projected revenue by source, and from Parliament's expenditure projections by main division; and 15
    - (ii) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within Parliament's approved budget.
- (2) The statement must include a projection of revenue and expenditure for the remainder of the financial year, and any revisions from initial projections. 20
- (3) The amounts reflected in the statement must in each case be compared with the corresponding amounts set out in the projected cash-flows and in Parliament's budget.

#### **Quarterly performance reports**

- 52.** Within 30 days of the end of each quarter, the Accounting Officer must report to the Executive Authority on Parliament's performance in implementing the annual performance plan in that quarter. 25

#### **Mid-year budget and performance assessment**

- 53.** (1) Before 31 October of each year, the Accounting Officer must submit to the Executive Authority a report that assesses the performance of Parliament's administration during the first half of the financial year, taking into account— 30
- (a) the monthly statements referred to in section 51 for the first half of the financial year;
  - (b) the past year's annual report, and progress on resolving problems identified in the report; and
  - (c) performance in implementing the annual performance plan. 35
- (2) In the report the Accounting Officer must—
- (a) recommend whether an adjustments budget may be necessary; and
  - (b) revise projections for revenue and expenditure to the extent that this may be necessary.

#### **Submission of reports to oversight mechanism** 40

- 54.** (1) The Executive Authority must table the monthly, quarterly and mid-year reports in Parliament within five working days of receiving the reports.
- (2) Parliament must refer the reports to the oversight mechanism promptly.

**Part 2: Annual report, financial statements and auditing**

**Preparation of annual reports**

- 55.** (1) For each financial year, the Accounting Officer must prepare an annual report.
- (2) The purpose of an annual report is to—
- (a) provide a record of the activities of Parliament’s administration during the financial year to which the report relates; 5
  - (b) provide a report on performance of Parliament’s administration; and
  - (c) promote accountability for decisions made during the year by Parliament’s administration. 10
- (3) The annual report must be based on the annual performance plan and must contain—
- (a) the annual financial statements of Parliament for the relevant financial year as submitted to the Auditor-General;
  - (b) any explanations that may be necessary to clarify the financial statements;
  - (c) the Auditor-General’s audit report on those financial statements; 15
  - (d) an assessment by the Accounting Officer of the performance of Parliament during that financial year against the objectives and outcomes identified in Parliament’s annual performance plan;
  - (e) particulars of any corrective action taken or to be taken in response to issues raised in the audit report referred to in paragraph (c); 20
  - (f) the audit committee’s report; and
  - (g) any other prescribed information.

**Preparation of financial statements**

- 56.** (1) For each financial year, the Accounting Officer must prepare annual financial statements in accordance with the standards of generally recognised accounting practice and, in the absence of an applicable standard, in accordance with standards prescribed by the Executive Authority for the purpose of maintaining consistency with other organs of state. 25
- (2) The notes to the annual financial statements must—
- (a) include particulars of the remuneration of the Accounting Officer and senior managers, whether financial or in kind; 30
  - (b) disclose in respect of each bank account held by Parliament during the relevant financial year—
    - (i) the name of the bank where the account is or was held, and the type of account; and 35
    - (ii) year opening and year end balances in each of these bank accounts;
  - (c) provide a summary of all investments of Parliament as at the end of the financial year; and
  - (d) provide particulars of—
    - (i) all unauthorised expenditure that occurred during the financial year indicating whether it is recoverable and distinguishing between unauthorised expenditure of appropriated and approved funds, and unauthorised expenditure of donor funds; 40
    - (ii) all material losses, and irregular and fruitless and wasteful expenditure that occurred during the financial year indicating whether these are recoverable; 45
    - (iii) any disciplinary or criminal steps instituted as a result of such losses

- or unauthorised, irregular or fruitless and wasteful expenditures;  
and
- (iv) any material losses written off.

### **Submission of annual financial statements**

- 57.** Within two months after the end of the financial year, the Accounting Officer must submit the annual financial statements— 5
- (a) to the Auditor-General for auditing; and
  - (b) to the National Treasury for inclusion in the consolidated financial statements.

### **Auditing of annual financial statements**

- 58.** (1) The Auditor-General must— 10
- (a) audit the financial statements submitted in terms of section 57; and
  - (b) submit an audit report on those statements to the Executive Authority within two months of receiving the statements.
- (2) If the Auditor-General is unable to complete an audit within two months of receiving the financial statements, the Auditor-General must promptly submit a report outlining the reasons for the delay to the Executive Authority. The Executive Authority must promptly table the report in Parliament. 15
- (3) Once the Auditor-General has submitted an audit report to the Executive Authority, no person may alter the report or the annual financial statements to which the report relates. 20

### **Submission of annual report**

- 59.** The Accounting Officer must submit Parliament’s annual report to the Executive Authority so that the Executive Authority is able to table the report in Parliament within five months of the end of the financial year concerned.

### **Tabling and consideration of annual report** 25

- 60.** (1) The Executive Authority must table the annual report in Parliament within five working days of receiving it.
- (2) The annual report, including the audited financial statements and audit report, must be made public.
- (3) The annual report of Parliament must be referred to the oversight mechanism. 30

### **Issues raised in audit reports**

- 61.** The Accounting Officer must—
- (a) promptly address any issues raised by the Auditor-General in an audit report; and
  - (b) advise the Executive Authority of the steps taken to address the issues. 35

### **Consequences of non-compliance with certain provisions**

- 62.** (1) If the Accounting Officer does not submit the annual financial statements to the Auditor-General in accordance with section 57—
- (a) the Accounting Officer must promptly submit a written explanation setting out the reasons for the failure to— 40
    - (i) the Auditor-General; and
    - (ii) the Executive Authority; and
  - (b) the Executive Authority—
    - (i) must report to Parliament concerning the failure;
    - (ii) must take appropriate steps to ensure that the financial statements are submitted for auditing; and 45

- (iii) may order that disciplinary steps be taken against the Accounting Officer or official responsible for the failure; and
  - (c) the Auditor-General may issue a special report on such failure to Parliament which must be made public.
- (2) If the Executive Authority does not table the annual report in Parliament within five months of the end of the financial year concerned—
- (a) the Executive Authority—
    - (i) must table a report on the failure in Parliament;
    - (ii) must take appropriate steps to ensure that the annual report is tabled in Parliament; and
    - (iii) may order that disciplinary steps be taken against the Accounting Officer or official responsible for the failure; and
  - (b) the Auditor-General—
    - (i) must submit the audited financial statements and audit report to Parliament for tabling; and
    - (ii) may issue a special report on the delay.

### ***Part 3: General reporting responsibilities***

#### **Reporting of irregularities**

**63.** The Accounting Officer must report particulars of any unauthorised, irregular or fruitless and wasteful expenditure, or the likelihood of any such expenditure, to the Executive Authority immediately on discovery.

#### **Other information**

**64.** The Accounting Officer must comply with any request by Parliament, the Executive Authority, or the Auditor-General for information, documents, explanations and motivations.

## **CHAPTER 9**

### **REGULATIONS AND INSTRUCTIONS**

#### **Regulations**

- 65.** (1) The Executive Authority may issue regulations not inconsistent with this Act concerning—
- (a) any matter in respect of which this Act authorises regulations or policy;
  - (b) the handling of, and control over, the assets of Parliament;
  - (c) the improvement and maintenance of the assets of Parliament;
  - (d) the alienation, letting or other disposal of the assets of Parliament;
  - (e) an appropriate supply chain management system for Parliament which complies with Chapter 6;
  - (f) the financial management of the provision of support services and constituency funding to political parties represented in Parliament;
  - (g) the rendering of free services by Parliament's administration;
  - (h) the determination of any scales of fees, other charges or rates relating to services provided by Parliament's administration;
  - (i) the writing off of, or settling of claims in respect of, losses of money or other assets of Parliament or amounts owed to Parliament;
  - (j) liability for losses and damages, and procedures for recovery, including the recovery of fruitless and wasteful, unauthorised and irregular expenditure;

- (k) the cancellation or variation of contracts that are to the detriment of Parliament;
  - (l) the settlement of claims by or against Parliament;
  - (m) the waiver of claims by Parliament;
  - (n) the remission of money due to Parliament; 5
  - (o) gifts or donations to officials of Parliament;
  - (p) vouchers or other proofs of receipts or payments, which are defective or have been lost or damaged;
  - (q) varying the time period within which any act must be performed in terms of this Act if it is necessary to achieve conformity with the budgeting or accounting cycles applicable to the public sector; and 10
  - (r) any other matter concerning the financial management of Parliament that may facilitate the application of this Act.
- (2) Regulations in terms of subsection (1) may prescribe that the prior approval of the Executive Authority must be obtained for particular actions. 15
- (3) The Accounting Officer must—
- (a) ensure that drafts of regulations required by this Act are prepared;
  - (b) periodically review regulations made in terms of the Act; and
  - (c) when appropriate, ensure that draft amendments are prepared.
- (4) (a) The Executive Authority may approve departures from regulations or condone a failure to comply with a regulation provided that the objectives of the Act are not undermined. 20
- (b) The reasons for any decision taken in terms of paragraph (a) must be recorded in writing and submitted to the oversight mechanism promptly.
- (5) The Executive Authority must ensure that a draft of any proposed regulations dealing with any matter contemplated in section 34 or Chapter 6 is published for public comment. 25
- (6) Regulations issued by the Executive Authority in terms of subsection (1) may come into effect only after they have been approved by Parliament.
- (7) The Accounting Officer must publish all regulations approved by Parliament— 30
- (a) in a parliamentary paper; and
  - (b) in the Government Gazette, if the regulations deal with a matter contemplated by subsection (5).

### **Instructions**

- 66.** (1) For the purpose of implementing this Act, the Executive Authority may issue written instructions not inconsistent with this Act or its regulations. 35
- (2) A copy of any instruction issued in terms of subsection (1) must be submitted to the oversight mechanism promptly.

## **CHAPTER 10**

### **FINANCIAL MISCONDUCT 40**

#### *Part 1: Disciplinary proceedings*

#### **Financial misconduct by Accounting Officer**

- 67.** (1) The Accounting Officer commits an act of financial misconduct if the Accounting Officer deliberately or negligently— 45
- (a) contravenes a provision of this Act;
  - (b) fails to comply with a duty imposed by a provision of this Act on the Accounting Officer;
  - (c) makes, or permits or instructs another official of Parliament to make, an unauthorised, irregular or fruitless and wasteful expenditure; or

- (d) provides incorrect or misleading information in any document which must be submitted to the Executive Authority, the National Treasury or the Auditor-General in terms of this Act.
- (2) The Executive Authority must—
  - (a) investigate promptly any allegation of financial misconduct against the Accounting Officer, unless it is obviously unfounded; and
  - (b) if the investigation warrants such a step, institute disciplinary proceedings promptly and in accordance with any applicable systems and procedures.

### **Financial misconduct by officials**

- 68.** (1) An official of Parliament to whom a power or duty was delegated in terms of section 10, or who exercises financial management responsibilities in terms of section 11, commits an act of financial misconduct if that official deliberately or negligently—
- (a) fails to carry out the delegated power or duty;
  - (b) contravenes or fails to comply with a condition of the delegated power or duty;
  - (c) makes, or permits or instructs another official of Parliament to make, an unauthorised, irregular or fruitless and wasteful expenditure; or
  - (d) provides incorrect or misleading information in any document submitted to the Accounting Officer.
- (2) The Accounting Officer must—
- (a) investigate any allegation of financial misconduct against an official unless it is obviously unfounded; and
  - (b) if the investigation warrants such a step, institute disciplinary proceedings within 30 days in accordance with any applicable systems and procedures.

### ***Part 2: Criminal proceedings*** 25

### **Offences**

- 69.** (1) It is an offence for the Accounting Officer to—
- (a) deliberately or in a grossly negligent way—
    - (i) contravene or fail to comply with a provision of section 7, 26(c), 30(2)(a) or (c), 31(2)(a), (b), (c) or (d), 33(2)(a), (b), (c), (d) or (f); or
    - (ii) fail to take all reasonable steps to prevent unauthorised, irregular or fruitless and wasteful expenditure;
  - (b) contravene section 12(3)(b);
  - (c) fail to take all reasonable steps to prevent corrupt practices—
    - (i) in the management of Parliament's assets or receipt of money; or
    - (ii) in the implementation of Parliament's supply chain management system;
  - (d) deliberately mislead or withhold information from the Executive Authority or Auditor-General on any bank accounts of Parliament or on money received or spent by Parliament; or
  - (e) deliberately provide false or misleading information in any document which in terms of a requirement of this Act must be submitted to the Executive Authority or Auditor-General.
- (2) It is an offence for—
- (a) any official to whom a power or duty is delegated in terms of section 10, to contravene or fail to comply deliberately or in a grossly negligent way with the delegation or a condition of the delegation;

- (b) any official who exercises financial management responsibilities in terms of section 11, to fail to fulfil those responsibilities deliberately or in a grossly negligent way; or
  - (c) any official to contravene section 12(3)(b).
- (3) It is an offence for any person to contravene sections 44, 45, 46 or 58(3). 5

### **Penalties**

**70.** A person convicted of an offence in terms of section 69 is liable to a fine or to imprisonment for a period not exceeding five years.

## **CHAPTER 11**

### **MISCELLANEOUS 10**

#### **Liability of functionaries exercising powers and functions in terms of this Act**

**71.** (1) No member of the Executive Authority, the Accounting Officer or any other official exercising a power or performing a function in terms of this Act, is liable in respect of any loss or damage resulting from the exercise of that power or the performance of that function in good faith. 15

(2) Without limiting liability in terms of the common law or other legislation, Parliament may recover from the Accounting Officer or other official, any loss or damage suffered by it because of the deliberate or negligent unlawful actions of that Accounting Officer or other official when performing a function in terms of this Act.

#### **Repeal of legislation 20**

**72.** This Act repeals—

- (a) sections 31 and 39 of the Powers and Privileges of Parliament Act, 1963 (Act No. 91 of 1963);
- (b) in the Public Finance Management Act—
  - (i) the words “Parliament and” in section 3(1)(d); 25
  - (ii) subparagraph (a) of section 3(2);
  - (iii) section 13(1)(a); and
  - (iv) the word “Parliament,” in section 13(5).

#### **Short title and commencement**

**73.** This Act is called the Financial Management of Parliament Act, 2009 and comes into operation on assent by the President and in accordance with the transitional arrangements set out in Schedule 4 to this Act. 30

**SCHEDULE 1****Norms and standards for provincial legislatures**

- Legislation enacted by a provincial legislature to regulate its financial management must promote accountable, transparent and sound financial management and to this end must—
- (a) identify an individual or body as the executive authority responsible for controlling the revenue, expenditure, assets and liabilities of the legislature; 5
  - (b) provide for the accountability of that executive authority to the legislature;
  - (c) provide for an accounting officer and set out the responsibilities of the accounting officer; 10
  - (d) provide for appropriate measures to ensure that the legislature has adequate financial management capacity;
  - (e) require budgetary and financial planning processes to be co-ordinated with the processes of the relevant executive organs of state;
  - (f) stipulate arrangements concerning the management of revenue, expenditure, assets and liabilities; 15
  - (g) require the administration of the legislature to put in place a supply chain management framework which is fair, equitable, transparent, competitive, cost-effective;
  - (h) require the preparation of annual financial statements in accordance with the norms and standards prescribed in the Public Finance Management Act; 20
  - (i) establish internal control and risk management arrangements including internal audit and an independent audit committee;
  - (j) require the internal and external auditing of financial statements;
  - (k) require financial statements to be submitted to the legislature and made accessible to the public; and 25
  - (l) require the legislature to comply with the standards of generally recognised accounting practice.

## SCHEDULE 2

### **Code of Ethics for members of the Executive Authority**

(1) The object of this Code is to enhance the confidence of the public and Members in the integrity of the management of Parliament. It applies to the members of the Executive Authority of Parliament and supplements the parliamentary Code of Conduct for Assembly and permanent Council members. It recognises that in holding high public office members of the Executive Committee have an obligation to perform their official functions and duties in a way that will bear the closest public scrutiny, an obligation that is not discharged by simply acting within the law. 5

(2) Members of the Executive Authority must conform to the principles of good governance set out in this Schedule. 10

(3) Members of the Executive Authority must—

- (a) fulfil all the obligations placed upon them by the Constitution, the law and the rules, regulations and policies of Parliament;
- (b) perform their duties and exercise their powers with honesty and diligence and in accordance with the highest ethical standards; 15
- (c) act in all respects in a manner that is consistent with the integrity of their office; and
- (d) arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interests from arising and, if such a conflict does arise, resolve the conflict in favour of the interests of Parliament and the public. 20

(4) Members of the Executive Authority may not—

- (a) use their positions to enrich themselves or improperly benefit any other person;
- (b) expose themselves to any situation involving the risk of a conflict between their official responsibilities and their private interests; 25
- (c) receive remuneration for any work or service other than for the performance of their functions as members of the Executive Authority; or
- (d) use any allowance provided by Parliament for a purpose other than that for which it was provided. 30

(5) Any complaints concerning adherence to this Code must be determined by the parliamentary committee established under the Rules of Parliament to oversee the Code of Conduct for Assembly and permanent Council members.

### SCHEDULE 3

#### Matters that must be covered in Parliament's supply chain management policy

- Parliament's supply chain management policy must cover the following matters—
- (a) the range of supply chain management processes that Parliament may use, including tenders, quotations, auctions and other types of competitive bidding; 5
  - (b) when Parliament may or must use a particular type of process;
  - (c) procedures and mechanisms for each type of process;
  - (d) procedures and mechanisms for more flexible processes where the value of a contract is below a prescribed amount; 10
  - (e) open and transparent pre-qualification processes for tenders or other bids;
  - (f) competitive bidding processes in which only pre-qualified persons may participate;
  - (g) bid documentation, and the advertising of and invitations for contracts;
  - (h) procedures and mechanisms for— 15
    - (i) the opening, registering and recording of bids in the presence of interested persons;
    - (ii) the evaluation of bids to ensure best value for money;
    - (iii) negotiating the final terms of contracts; and
    - (iv) the approval of bids; 20
  - (i) screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value;
  - (j) compulsory disclosure of any conflicts of interests prospective contractors may have in specific tenders;
  - (k) the circumstances in which prospective contractors may be excluded from being considered for any contract on account of a conflict of interest; 25
  - (l) the consequences of failing to disclose conflicts of interest in accordance with the Policy;
  - (m) participation in the supply chain management system of persons who are not officials of Parliament or in the employ of the State ; 30
  - (n) the barring of persons from participating in tendering or other bidding processes, including persons—
    - (i) convicted for fraud, corruption or any other crime involving dishonesty in the previous five years;
    - (ii) who wilfully breached a contract with an organ of state during the previous five years; or 35
    - (iii) whose tax matters are not cleared by South African Revenue Service;
  - (o) measures for— 40
    - (i) combating dishonesty, favouritism and unfair and irregular practices in supply chain management; and
    - (ii) promoting ethics of officials of Parliament and others involved in supply chain management;
  - (p) the invalidation of recommendations or decisions that were made, taken or in any way influenced by— 45
    - (i) Members of Parliament in contravention of this Act or any applicable code of conduct for Members of Parliament;
    - (ii) officials of parliament in contravention of this Act or any applicable code of conduct for officials of Parliament;

- (q) the procurement of goods and services by Parliament through contracts procured by other organs of state;
- (r) contract management and dispute settling procedures;
- (s) the delegation of Parliament's supply chain management powers and duties to officials of Parliament; and
- (t) the circumstances in which a contract or agreement procured through the supply chain management policy of Parliament may be amended by the parties.

**SCHEDULE 4****Transitional Arrangements**

- (1) Section 14 and those parts of other sections of this Act that refer to the strategic plan come into effect on the date of the first elections for the National Assembly after the Act comes into effect. 5
- (2) Sections 15 to 20, 22, 23 and 51 to 62 come into effect at the start of the first financial year after the Act comes into effect.
- (3) Until such time as any provision contemplated by items (1) and (2) of this Schedule comes into effect, Parliament shall continue to comply with any applicable requirement on the Public Finance Management Act and its regulations. 10
- (4) Until such time as any regulation that must be made in terms of this Act comes into force, any policies, regulations or rules concerning the subject-matter of such regulation remain in force.
- (5) If, when this Act comes into effect, there is no performance agreement for the Accounting Officer as required in terms of section 8, an agreement must be concluded within a month. 15
- (6) After this Act comes into effect, no powers or duties may be delegated until the system of delegation anticipated in section 10 is adopted; except—
- (a) officials exercising powers or performing duties delegated to them by the Accounting Officer before the Act came into effect may continue to do so; and 20
  - (b) if a power or duty was delegated to the holder of an office in Parliament before the Act came into effect, the holder of that office and any future holder of the office may continue to exercise the power or perform the duty.
- (7) Sections 40, 41 and 42 come into effect when the regulations that sections 40 and 42 anticipate are made in terms of section 65. 25
- (8) Regulations required by this Act must be made within a reasonable time of the Act coming into effect.