

**PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA
NOTICE 565 OF 2017**

REPUBLIC OF SOUTH AFRICA

**MONEY BILLS AMENDMENT PROCEDURE AND RELATED
MATTERS AMENDMENT BILL, 2017**

*(As initiated by the Standing Committee on Finance, as a Committee Bill, for introduction in
the National Assembly (proposed section 75); prior notice of introduction published in
Government Gazette No.41024 of 4 August 2017)
(The English text is the official text of the Bill)*

(STANDING COMMITTEE ON FINANCE)

[B ... - 2017]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate deletions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Money Bills Amendment Procedure and Related Matters Act, 2008 so as to amend and insert certain definitions; to clarify which instruments the Act applies to; to correct the powers and functions of the committees dealing with matters related to the Act; to clarify and amend the procedure, resultant reporting and periods involved in the amendment of money Bills; to repeal certain provisions; to establish the Parliamentary Budget Office as a juristic person and to strengthen the accountability model of the Parliamentary Budget Office; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 9 of 2009

1. Section 1 of the Money Bills Amendment Procedure and Related Matters Act, 2008 (Act No. 9 of 2009) (hereafter referred to as the principal Act) is hereby amended by—

- (a) the substitution for the definition of “Adjustments Appropriation Bill” of the following definition:

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

- (b) the insertion after the definition of “Adjustments Appropriation Bill” of the following definition:

““advisory board” means the chairpersons of the committees of finance and appropriations in both Houses of Parliament as well as the house chairpersons of the National Assembly and the National Council of Provinces;”;

- (c) the substitution for the definition of “committee” of the following definition:

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

- (d) the insertion after the definition of “day” of the following definition:

““department” means a national department or a national government component as defined in the Public Finance Management Act;”;

- (e) the substitution for the definition of “Division of Revenue Bill” of the following definition:

““Division of Revenue Bill” means the Bill which must be [enacted] introduced in the National Assembly 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;”;

- (f) the insertion after the definition of “Division of Revenue Bill” of the following definition:

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

- (g) the insertion after the definition of “extra-budgetary revenue and expenditure” of

the following definition:

“Financial Management of Parliament and Provincial Legislatures Act”
means the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No. 10 of 2009);”;

- (h) the substitution for the definition of “fiscal framework” of the following definition:

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

- (a) estimates of all revenue proposals, budgetary and extra-budgetary specified separately, **[expected]** estimated to be raised during that financial year and the period of the MTEF;
- (b) estimates of all expenditure, budgetary and extra-budgetary specified separately, for that financial year and the period of the MTEF;
- (c) estimates of borrowing for that financial year and the period of the MTEF;
- (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;”;

- (i) the insertion after the definition of “joint rules” of the following definition:

“main division within a vote” has the same meaning as defined in the Public Finance Management Act;”;

- (j) the insertion after the definition of “medium term budget policy statement” of the following definition:

“MTEF” means the Medium Term Expenditure Framework that—

- (a) translates government policies and plans into a multi-year spending plan; and
- (b) promotes transparency, accountability and effective public financial management for expenditure of the current and subsequent two financial years;”;

- (k) the substitution for the definition of “Parliament” of the following definition:

“**“Parliament”** means the National Assembly and the National Council of Provinces **[as envisaged]** referred to in section 42 of the Constitution;”;

- (l) the substitution for the definition of “Public Finance Management Act” of the following definition:

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

- (m) the deletion of the definition of “Secretary”; and

- (n) the insertion after the definition of “the Constitution” of the following definition:

“**“this Act”** includes the regulations made under section 16A;”.

Amendment of section 3 of Act 9 of 2009

2. The following section is hereby substituted for section 3 of the principal Act:

“Application of this Act

3. This Act applies to all **[proposed amendments to]** money Bills, all division of revenue Bills, the medium term budget policy statement, the fiscal framework, amendments to any of the aforesaid and related instruments brought before Parliament.”.

Amendment of section 4 of Act 9 of 2009

3. Section 4 of the principal Act is hereby amended by—

- (a) the substitution for subsection (2) of the following subsection:

“(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—

- (a) the national macro-economic and fiscal policy;
- (b) **[amendments to]** the fiscal framework, revised fiscal framework **[and revenue proposals and]**, Bills and amendments thereto;
- (c) actual revenue published by the National Treasury; and
- (d) any other related matter set out in this Act.”; and

(b) the substitution for subsection (4) of the following subsection:

“(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—

- (a) spending issues;
- (b) **[amendments to]** the Division of Revenue Bill, the Appropriation Bill, Supplementary **[Appropriations]** Appropriation Bills **[and]**, the **[Adjustment Appropriations]** Adjustments Appropriation Bill, and amendments thereto;
- (c) recommendations of the Financial and Fiscal Commission, including those referred to in the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997);
- (d) reports or statements on actual expenditure published by the National Treasury; and
- (e) any other related matter set out in this Act.”.

Amendment of section 5 of Act 9 of 2009

4. Section 5 of the principal Act is hereby amended by—

(a) the substitution for the heading of the following heading:

“Procedure prior to introduction of [the] national budget”;

(b) the substitution for subsection (1) of the following subsection:

“(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]** goals and measurable objectives, as tabled in the National Assembly with the national budget;
- (b) prevailing strategic plans;
- (c) the expenditure **[report]** reports relating to a vote appropriating funds for 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;
- (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.”; and

(c) the substitution for subsection (6) of the following subsection:

“(6) Additional budgetary and recommendation reports may be submitted at the discretion of a committee of the National Assembly.”.

Amendment of section 6 of Act 9 of 2009

5. Section 6 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

“(1) At least **[three]** four months prior to the introduction of the national budget, the Minister must submit to Parliament a medium term budget policy

statement.”;

(b) the substitution for subsections (2) and (3) of the following subsections respectively:

“(2) The medium term budget policy statement must include—

- (a) a revised fiscal framework for the **[present]** financial year in which the statement is tabled and the proposed fiscal **[framework]** frameworks for the next three financial years;
- (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 financial years;
- (d) the proposed division of revenue between the spheres of government **[and between arms of government within a sphere]** for the next three financial years;
- (e) the proposed **[substantial]** adjustments to conditional grant allocations to provinces and **[local governments]** municipalities, 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 in which the statement is tabled.

(3) A House must refer matters referred to in **[subsections]** subsection (2)(a) and (b) to its committee on finance.”;

(c) the substitution for subsections (5) to (8) of the following subsections respectively:

“(5) Each committee on finance must within 30 days after the tabling of the **[Medium Term Budget Policy Statement]** medium term budget policy statement or as soon as reasonable thereafter, report to the National Assembly or the National Council of Provinces, as the case **[may be]** requires, on the proposed fiscal framework for the next three financial years.

- (6) The report may include recommendations to amend the proposed fiscal framework **[should it remain materially unchanged when submitted with the national budget]**.
- (7) A report referred to in subsection (5) must be submitted to the Minister within [7] seven days after its adoption by a House or as soon as reasonable thereafter.
- (8) A House must refer matters concerning **[subsections]** subsection (2)(c), (d), **[and]** (e) and (f) to its committee on appropriations and may, in addition, refer matters concerning subsection (2)(f) to any other committee.”; and
- (d) by the substitution for subsections (10) to (12) of the following subsections respectively:
- “(10) Each committee on appropriations must, 30 days after the tabling of the **[Medium Term Budget Policy Statement submit a]** medium term budget policy statement or as soon as reasonable thereafter, report to the National Assembly or the National Council of Provinces, as the case **[may be]** requires, on the proposed division of revenue and the conditional grant allocations to provinces and **[local governments]** municipalities.
- (11) A report referred to in subsection (10) may include a recommendation to amend the proposed division of revenue **[should it remain materially unchanged in the Division of Revenue Bill]**.
- (12) A report referred to in subsection (10) must be submitted to the Minister within [7] seven days after its adoption by the House or as soon as reasonable thereafter.”.

Substitution of section 7 of Act 9 of 2009

6. The following section is hereby substituted for section 7 of the principal Act:

“Introduction of [the Division of Revenue Bill, the] national budget, Division of

Revenue Bill and [the] Appropriation Bill

7. (1) The Minister must table the national annual budget in the National Assembly as set out in section 27 of the Public Finance Management Act, at the same time as the Division of Revenue Bill and the Appropriation Bill.

(2) In addition to the information stipulated in section 27 of the Public Finance Management Act, the documentation tabled by the Minister with the national annual budget must include—

- (a) the proposed fiscal framework for the next three financial [year and subsequent two] years;
- (b) the key macro-economic assumptions underlying the fiscal framework over the short, medium and long term;
- (c) key fiscal ratios for the next three financial [year and subsequent two] years, including revenue, expenditure, the primary and overall balance and outstanding general government and public sector debt at the end of the financial year as a percentage of gross domestic product;
- (d) tax and other revenue proposals, including the contribution of the different revenue categories to national revenue for the next three financial [year and subsequent two] years;
- (e) cyclical factors taken into account in the formulation of the fiscal framework for the next three financial [year and subsequent two] years;
- (f) an estimate of aggregate general government and public sector debt levels in the short, medium and long term;
- (g) an estimate and breakdown of contingent liabilities for the next three financial [year and subsequent two] years; and
- (h) any other information requested by a House from time to time.

[(3) The Division of Revenue Bill must be introduced at the same time as the Bills referred to in subsection (1).]

(4) The Minister must submit a report to the Houses at the same time as tabling the

Bills referred to in **[subsections]** subsection (1) **[and (3)]**, explaining how the Division of Revenue Bill and the national budget give effect to, or the reasons for not taking into account, the recommendations contained in the reports referred to in sections 5(2), 6(7) and 6(12).”.

Amendment of section 8 of Act 9 of 2009

7. Section 8 of the principal Act is hereby amended by—

(a) the substitution for the heading of the following heading:

“**[Adopting the] Adoption of fiscal framework [and revenue proposals]**”;

(b) the substitution for subsections (1) to (3) of the following subsections respectively:

“(1) The National Assembly and the National Council of Provinces must refer the fiscal framework **[and revenue proposals]** to their respective **[committee]** committees on finance.”;

(2) The committees must conduct joint public hearings on the fiscal framework **[and revenue proposals]**.

(3) The committees must, within 16 days after the tabling of the national budget **[submit a]** or as soon as reasonable thereafter, report to the National Assembly **[and]** or the National Council of Provinces, as the case requires, on the fiscal framework **[and revenue proposals]**.”; and

(c) the deletion of subsection (7).

Substitution of section 9 of Act 9 of 2009

8. Section 9 of the principal Act is hereby amended by—

(a) the substitution for subsections (1) to (3) of the following subsections respectively:

“(1) After the adoption of the fiscal framework the Division of Revenue Bill must be referred to the committee on appropriations of the National Assembly **[for consideration and report]**].

(2) After the Bill is passed by the National Assembly and referred to the National Council of Provinces, the Bill must be referred to the committee on appropriations of the Council **[for consideration and report]**.

(3) The Division of Revenue Bill must be passed **[no later than]** within 35 days after the adoption of the fiscal framework by Parliament or as soon as reasonable thereafter.”;

(b) the substitution for subsection (5) of the following subsection:

“(5) The standing rules must provide for—

(a) the participation **[of chairpersons]** of other committees in considering the Division of Revenue Bill;

(b) public hearings by the committees on appropriations;

(c) any member of Cabinet affected by the proposed amendments to respond to the proposed amendments affecting conditional grant allocations;

(d) provinces and **[local governments]** municipalities affected by the proposed amendments to respond to the proposed amendments; and

(e) the committee on appropriations of each House to prepare a report on the Division of Revenue Bill in accordance with subsection (6).”;

(c) the substitution for subsection (6) of the following subsection:

“(6) The report of the respective committees on appropriations must, at least[:]=

(a) indicate whether the effects of the proposed amendments on the total national, provincial and local government equitable and conditional grant allocations in terms of the Bill are consistent with the adopted

fiscal framework;

- (b) motivate the amendments in terms of service delivery improvements; and
- (c) demonstrate that the impact of amendments has been taken into account in respect of the service delivery obligations of all affected national departments, **[provinces]** provincial governments, and **[local governments]** municipalities.”;

- (d) the substitution for subsection (7) of the following subsection:

“(7) The committees on appropriations must—

- (a) consult with the Financial and Fiscal Commission; and
- (b) allow the Minister the opportunity to respond to any proposed amendments **[proposed]** at least **[3]** three days prior to the submission of the report to the relevant House.”; and

- (e) the substitution for subsection (8) of the following subsection:

“(8) The **[report]** reports submitted by the committees on appropriations to the respective Houses must be accompanied by any response of the Minister to any proposed amendments.”.

Amendment of section 10 of Act 9 of 2009

9. Section 10 of the principal Act is hereby amended by—

- (a) the substitution for subsections (1) to (3) of the following subsections respectively:

“(1) After the adoption of the fiscal framework:

- (a) the Appropriation Bill must be referred to the **[Committee]** committee on **[Appropriations]** appropriations of the National Assembly;
- (b) the Minister must table the proposals setting out the **[strategic**

priorities, measurable objectives] purpose and other strategic performance information for each **[department, public entity or institution]** vote against its expected revenue and proposed expenditure by programme, **[sub-programme]** main division and economic **[items of expenditure]** classifications; and

- (c) the relevant members of Cabinet must table updated strategic plans for each department, public entity or constitutional institution, which must be referred to the relevant committee **[for consideration and report]**.

(2) After the Appropriation Bill has been referred to the National Council of Provinces, the Bill must be referred to the **[Committee]** committee on **[Appropriations]** appropriations of the Council.

(3) The **[Committee]** committee on **[Appropriations]** appropriations may not consider amendments to the Appropriation Bill prior to the passing of the Division of Revenue Bill.”;

- (b) the substitution for subsection (5) of the following subsection:

“(5) Another committee may advise a **[Committee]** committee on **[Appropriations]** appropriations that a sub-division of a main division within a vote be appropriated conditionally to ensure that the money requested for the main division will be spent effectively, efficiently and economically, provided that—

- (a) the committee must specify the conditions that need to be met before the **[Committee]** committee on **[Appropriations]** appropriations may recommend to the House that the funds be released;
- (b) the Minister **[or]** and the affected member of Cabinet must be given at least [2] two days to respond to the proposed conditional appropriation, which response must be included in the report containing the recommendation; and
- [(c) a recommendation to the House that a sub-division of a main division within a vote is appropriated conditionally must be**

accompanied by the response from the Minister and the affected member of Cabinet, as the case requires; and]

- (d) the House must consider the recommendation of the **[Committee]** committee on **[Appropriations]** appropriations to release the funds within **[7]** seven days after that committee reported to the House.”;

- (c) the substitution for subsection (6) of the following subsection:

“(6) Another committee may advise a **[Committee]** committee on **[Appropriations]** appropriations that an amount must be appropriated specifically and exclusively for a purpose mentioned under a main division within a vote.”;

- (d) the substitution for subsections (8) to (10) of the following subsections respectively:

“(8) The standing rules must provide for—

- (a) the **[Committee]** committee on **[Appropriations]** appropriations to hold public hearings on the Appropriation Bill and proposed amendments;
- (b) the **[Committee]** committee on **[Appropriations]** appropriations to report to the House on the comments on and amendments to the Appropriation Bill;
- (c) other committees to consult with the **[Committee]** committee on **[Appropriations]** appropriations in respect of proposed amendments to transfer payments, recurrent and capital expenditure of a vote, or a main division within a vote, taking into consideration any report adopted by the House;
- (d) other committees to consult with the **[Committee]** committee on **[Appropriations]** appropriations in respect of proposed conditional appropriations;
- (e) the **[Committee]** committee on **[Appropriations]** appropriations to mediate between committees proposing

conflicting amendments to the Appropriation Bill; and

- (f) the **[Committee]** committee on **[Appropriations]** appropriations to recommend to the House that proposed amendments reported by other committees are rejected where those amendments are inconsistent with the fiscal framework, the adopted Division of Revenue Bill or not motivated adequately in terms of this section.

(9) The Minister and any other member of Cabinet affected by the proposed amendments must be given at least 10 days to respond to any amendments proposed to the Appropriation Bill by the **[Committee]** committee on **[Appropriations]** appropriations prior to reporting to the House.

(10) A report of the **[Committee]** committee on **[Appropriations]** appropriations to the House that proposes amendments to the main Appropriation Bill must, in respect of each amendment—

- (a) indicate the reason for such proposed amendment;
- (b) demonstrate how the amendment takes into account the broad strategic priorities and allocations of the relevant budget;
- (c) demonstrate the implications of each proposed amendment for an affected vote and the main divisions within that vote;
- (d) demonstrate the impact of any proposed amendment on the balance between transfer payments, capital and recurrent spending in an affected vote;
- (e) set out the impact of any proposed amendment on service delivery;
[and]
- (f) set out the manner in which the amendment relates to prevailing departmental strategic plans, reports of the Auditor General, committee reports adopted by a House, reports in terms of section 32 of the Public Finance Management Act, annual reports and any other information submitted to a House or committee in terms of the standing rules or on request^[.]; and
- (g) include the responses of the Minister or member of Cabinet to any proposed amendment.”; and

- (e) the deletion of subsection (11).

Amendment of section 11 of Act 9 of 2009

10. Section 11 of the principal Act is hereby amended by—

- (a) the substitution for the heading of the following heading:

“Passing [the] revenue Bills”;

- (b) the substitution for subsection (1) of the following subsection:

“(1) Revenue Bills must be referred to the [Committee] committee on [Finance] finance of the National Assembly [for consideration and report].”;

- (c) the substitution for subsection (2) of the following subsection:

“(2) After the National Assembly passed a revenue Bill, [it] the Bill must be referred to the National Council of Provinces, and referred to the committee on finance of the Council.”; and

- (d) the substitution for subsection (4) of the following subsection:

“(4) The standing rules must provide for the committee on finance to—

- (a) [the Committee on Finance to] hold public hearings on the revenue Bills;**
- (b) [the Committee on Finance to] consult with other committees; and**
- (c) [the Committee on Finance to] report to the House in terms of subsection [(7)] (6).”.**

Substitution of section 12 of Act 9 of 2009

11. The following section is hereby substituted for section 12 of the principal Act:

“National adjustments budget

12. (1) The Minister **[must]** may table a national adjustments budget as envisaged in section 30 of the Public Finance Management Act.
- (2) An adjustments appropriation Bill must be tabled with a national adjustments budget.
- (3) The Minister must table a revised fiscal framework with the national adjustments budget if the adjustments budget effects changes to the fiscal framework.
- (4) The Minister must table a **[division of revenue amendment]** Division of Revenue Amendment Bill with the revised fiscal framework if the adjustments budget effects changes to the Division of Revenue Act for the relevant year.
- (5) If the Minister has tabled a revised fiscal framework, the revised framework must be referred to a joint sitting of the committees on finance for consideration.
- (6) If the Minister tables a **[division of revenue amendment]** Division of Revenue Amendment Bill, the Bill must be referred to — [a joint sitting of the committees on appropriations after the adoption of the revised fiscal framework by the House in terms of this section]
- (a) the committee on appropriations of the National Assembly after the adoption of the revised fiscal framework by Parliament; and
- (b) after the National Assembly passed the Division of Revenue Amendment Bill, the National Council of Provinces for referral to the committee on appropriations of the Council.”;
- (7) The committees on finance must **[9]** nine days after the tabling of the national adjustments budget submit a report on the revised fiscal framework to

the respective Houses **[for consideration and adoption]**.

(8) The report may propose amendments to the revised fiscal framework.

(9) If the report proposes amendments to the revised fiscal framework the Minister must be given at least **[2] two** days to respond to the report and proposed amendments prior to the submission of the respective reports to the Houses.

(10) The report of the committees must include the comments from the Minister.

[(11) The committees on appropriations must 9 days after the adoption of the fiscal framework report to the respective Houses on the Division of Revenue Amendment Bill.]

(12) The report of either committee on appropriations on the Division of Revenue Amendment Bill may propose amendments to the Division of Revenue Amendment Bill.

(13) If **[the]** either report proposes amendments to the Division of Revenue Amendment Bill, the Minister must be given at least **[4] four** days to respond to the **[report and]** proposed amendments prior to the submission of the report to the respective Houses.

(14) **[The]** A report of the committees on appropriations must include the comments of the Minister.

(15) **[In the event of a revised fiscal framework, an adjustment appropriation]** The Adjustment Appropriation Bill must be referred to—

(a) the **[Committee]** committee on **[Appropriations]** appropriations of the National Assembly only after the **[Division of Revenue Amendment Bill]** revised fiscal framework is passed by Parliament; and

(b) after the National Assembly passed the Adjustment Appropriation Bill, the National Council of Provinces for referral to the committee on appropriations of the Council.

(15A) The committees on appropriations may only report on the Adjustments Appropriation Bill after Parliament passed the Division of Revenue Amendment Bill.

(16) The standing rules must provide for—

- (a) the **[Committee]** committee on **[Appropriations]** appropriations to report comments on and amendments to the Adjustments Appropriation Bill;
- (b) other committees to consult with the **[Committee]** committee on **[Appropriations]** appropriations on amendments to transfer payments, recurrent and capital expenditure of a vote or a main division within a vote, taking into consideration the reports referred to in section 5(2) or any other report adopted by the House; **[and]**
- (c) the **[Committee]** committee on **[Appropriations]** appropriations to mediate between committees proposing conflicting amendments to the Adjustment Appropriation Bill; and
- (d) the **[Committee]** committee on **[Appropriations]** appropriations to recommend to the House that proposed amendments by other committees are rejected where those amendments are inconsistent with the fiscal framework, the adopted Division of Revenue Bill or not motivated adequately in terms of this section.

(17) The Minister must be given at least **[4]** four days to respond to any proposed amendments to the Adjustment Appropriation Bill by the **[Committee]** committee on **[Appropriations]** appropriations.

(18) The report of the **[Committee]** committee on **[Appropriations]**

appropriations must—

- (a) comply with section 10(10); and
- (b) include comments of the Minister to any proposed amendments.

(19) The **[Committee]** committee on **[Appropriations]** appropriations must report to the relevant House within 30 days after the tabling of the national adjustments budget or as soon as reasonable thereafter.”

Amendment to section 13 of Act 9 of 2009

12. The following section is hereby substituted for section 13 of the principal Act:

“Passing other **[Money] money Bills**

13. (1) Any money Bill other than money Bills referred to in sections 10, 11 and 12 must be referred to the respective committees on appropriations.
- (2) The standing rules must provide that a **[Committee]** committee on **[Appropriations]** appropriations considering a money Bill in terms of this section, must—
- (a) conduct public hearings on the Bill; and
 - (b) report on the Bill to the relevant House.
- (3) If a **[Committee]** committee on **[Appropriations]** appropriations propose amendments to a money Bill referred to in this section, the Minister must be given at least 14 days to respond to such proposed amendments before the committee reports to the House.
- (4) The report of a **[Committee]** committee on **[Appropriations]** appropriations referred to in this section must indicate—
- (a) the manner in which the proposed amendments are consistent with the prevailing fiscal framework; and
 - (b) the manner in which the proposed amendments comply with section

8(5) [of this Act].

- (5) The report of a [Committee] committee on [Appropriations] appropriations must include the comments of the Minister to any proposed amendments in terms of this section.”.

Amendment of section 15 of Act 9 of 2009

13. Section 15 of the principal Act is hereby amended by—

- (a) The substitution for subsection (1) of the following subsection:

“(1) There is hereby established a Parliamentary Budget Office as a juristic person headed by a Director, the main objective of which is to provide independent, objective and professional advice and analysis to Parliament on matters related to the budget and other money Bills.”;

- (b) the substitution for subsection (5) of the following subsection:

“(5) [The committees contemplated in section 4 must recommend to the respective Houses—

(a) a person with the requisite experience, qualifications and leadership skills to manage the Parliamentary Budget Office with the functions as set out in 15(2) and 15(3) for appointment as Director by resolution of both Houses; and

(b) the conditions of service, including the salary and allowance of the Director, which must take into account the knowledge and experience of the person and substantially be the same as those of the top rank of the public service.]

The respective Houses, on the recommendation of the committees contemplated in section 4—

- (a) must appoint a person with the requisite experience, qualifications and leadership skills to manage the Parliamentary

Budget Office with the functions as set out in subsections (2) and (3) as Director on a fixed term five-year contract;

- (b) must determine the conditions of service, including the salary and allowance of the Director, which must take into account the knowledge and experience of the person and substantially be the same as those of the top rank of the public service; and
- (c) may on performance renew the contract referred to in paragraph (a) on substantially the same conditions of service as contemplated in paragraph (b)."

(c) the repeal of subsection (6);

(d) the substitution for subsection (7) of the following subsection:

“(7) Any committee considering **[making]** a recommendation contemplated in subsection (5) must do so in an open and transparent manner.”;

(e) the substitution for subsection (9) of the following subsection:

“(9) The Director **[shall be obliged to]** must report to Parliament any inappropriate political or executive interference to prevent the office from providing independent, objective and professional advice on matters related to the budget and other money Bills.”;

(f) the substitution for subsection (10) of the following subsection:

“(10) The Parliamentary Budget Office must annually receive a transfer of funds from Parliament's budget in accordance with section 35 of the Financial Management of Parliament and Provincial Legislatures Act to carry out its duties and functions.”;

(g) the insertion after subsection (10) of the following subsection:

“(10A)(a) The Director is the Accounting Officer of the Parliamentary

Budget Office and is responsible and accountable for the financial and human resource management of the office.

(b) The Director must—

- (i) exercise the utmost care to protect the assets and records of the Parliamentary Budget Office;
- (ii) act with fidelity, honesty, integrity and in the best interests of the Parliamentary Budget Office in managing the financial affairs of the Parliamentary Budget Office;
- (iii) seek, within the Director's sphere of influence, to prevent any prejudice to the financial interests of the Republic;
- (iv) ensure that the Parliamentary Budget Office has and maintains—
 - (aa) effective, efficient and transparent systems of financial and risk management;
 - (bb) an effective, efficient and transparent system of internal audit; and
 - (cc) a procurement and provisioning system that is fair, equitable, transparent, competitive and cost-effective;
- (v) take appropriate and cost-effective steps to—
 - (aa) collect revenue due to the Parliamentary Budget Office;
 - (bb) prevent losses resulting from criminal conduct and expenditure that is not in accordance with the Parliamentary Budget Office's operational policies; and
 - (cc) manage available working capital efficiently and economically;
- (vi) manage and safe-guard the assets of the Parliamentary Budget Office, and manage the revenue, expenditure and liabilities of the Parliamentary Budget Office;
- (vii) establish systems and processes to ensure that effective and appropriate disciplinary steps are taken against any staff member of the Parliamentary Budget Office who—

- (aa) contravenes a law relevant to the performance of the Parliamentary Budget Office's functions; or
- (bb) engages in conduct that undermines the financial management and internal control systems of the Parliamentary Budget Office; and
- (viii) generally ensure that the Parliamentary Budget Office complies with its legal obligations.

(c) The Director must—

- (i) ensure that full and proper records of the financial affairs of the Parliamentary Budget Office are kept and maintained;
- (ii) prepare financial accounts for the Parliamentary Budget Office for each financial year which will form part of the annual report of Parliament;
- (iii) annually submit to the Executive Authority for tabling in Parliament a rolling three year budget in time for inclusion in Parliament's budget; and
- (iv) submit to the Executive Authority within five months after the end of each financial year, for tabling in Parliament, a report on the use of funds and the activities and performance of the Parliamentary Budget Office, including any matter that may be prescribed by regulation in terms of this Act.”;

- (h)* the repeal of subsection (11);
- (i)* the substitution for the words preceding paragraph *(a)* in subsection (13) of the following words:

“(13) The Director, in consultation with the **[committees referred to in section 4]** advisory board must determine—”;

- (j)* the substitution for subsection (15) of the following subsection:

“(15) When the position of Director is vacant, or if the Director is unable to fulfil the duties and functions of that position, the **[committees referred to in section 4]** advisory board must nominate a person in the employ of the Parliamentary Budget Office to act as Director until a Director is appointed in accordance with subsection (5).”; and

(k) the addition of the following subsection after subsection (16):

“(17) The Parliamentary Budget Office may obtain information it requires for the performance of its functions from any organ of state or person the Parliamentary Budget Office considers appropriate.

(18) Any information which the Parliamentary Budget Office requires for the performance of its functions and which is available to an organ of state or to any institution that derives any funds from the National Revenue Fund, a Provincial Revenue Fund or a municipality, must on request, be supplied free of charge by that organ of state or institution to the Parliamentary Budget Office.”.

Amendment of section 16 of Act 9 of 2009

14. The following section is hereby substituted for section 16 of the principal Act:

“16. Provincial legislatures must **[adhere to]** take into account the norms and standards for amending money Bills set out in the Schedule.”.

Insertion of Section 16A in Act 9 of 2009

15. The following section is hereby inserted after section 16 of the principal Act:

Regulations

16A. The Executive Authority may make regulations on a matter prescribed in terms of section 15(10A)(c)(iv).”.

Amendment of Short title of Act 9 of 2009

16. The following Short Title is hereby substituted for the Short Title of the principal Act:

“17. This Act is called the Money Bills Amendment Procedure and Related Matters Act, [2008] 2009.”.

Amendment of Schedule to Act 9 of 2009

17. The following Schedule is hereby substituted for the Schedule to the principal Act:

“Legislation enacted by a provincial legislature to provide for a procedure to amend money Bills must **[provide that]** take into account the purpose of amending money Bills is to give effect to resolutions of the legislature on oversight, and must comply with the following principles:

- (a) A money Bill sent to the Premier for assent must be consistent with[:]=
 - (i) the relevant fiscal framework adopted by Parliament; and
 - (ii) the relevant Division of Revenue Bill adopted by Parliament.
- (b) When considering an amendment a provincial legislature or any of its committees must[:]=
 - (i) ensure that there is an appropriate balance between revenue, expenditure and borrowing;
 - (ii) ensure that debt levels and debt interest cost are reasonable;
 - (iii) ensure that the cost of recurrent spending is not deferred to future generations;
 - (iv) ensure that there is adequate provision for spending on infrastructure;
 - (v) ensure that there is development, overall capital spending and maintenance;
 - (vi) consider the short, medium and long term implications of the fiscal framework, division of revenue and national budget on the long-term growth potential of the economy and the development of the country;
 - (vii) take into account cyclical factors that may impact on the prevailing fiscal position; and

- (viii) take into account all public revenue and expenditure, including extra budgetary funds, and contingent liabilities.
- (c) In amending revenue Bills and revenue proposals a provincial legislature and its committees must:—
- (i) ensure that the total amount of revenue raised is consistent with the fiscal framework approved by Parliament and the relevant Division of Revenue Bill adopted by Parliament;
 - (ii) take into account the principles of equity, efficiency, certainty and ease of collection;
 - (iii) consider the impact of the proposed change on the composition of tax revenue with reference to the balance between direct and indirect taxes;
 - (iv) consider regional and international tax trends; and
 - (v) consider the impact on development, investment, employment and economic growth.
- (d) The standing rules of the provincial legislature must provide for timeframes to introduce and consider money Bills, with or without amendments, with due regard to—
- (i) its constitutional obligation to facilitate public involvement in its legislative and other processes of the legislature and its committees; and
 - (ii) comments from the Member of the Executive Council who is responsible for financial matters in the province.
- [(e) The report of a committee of the provincial legislature that proposes amendments to the provincial annual budget must, in respect of each amendment:**
- (i) indicate the reason for such proposed amendment;**
 - (ii) demonstrate how the amendment takes into account the broad strategic priorities and allocations of the relevant budget;**
 - (iii) demonstrate the implications of each proposed amendment for an affected vote and the main divisions within that vote;**
 - (iv) demonstrate the impact of any proposed amendment on the balance between transfer payments, capital and recurrent spending in an affected vote;**
 - (v) set out the impact of any proposed amendment on service delivery;**
 - (vi) set out the manner in which the amendment relates to prevailing**

departmental strategic plans, reports of the Auditor General, committee reports adopted by the provincial legislature, reports in terms of section 32(2) of the Public Finance Management Act, annual reports and any other information submitted to the provincial legislature or committee in terms of the standing rules or on request; and

- (vii) include any responses from the member of the Executive Council who is responsible for financial matters in the province or any other member of the Executive Council.
- (f) The report of a committee of the provincial legislature that propose a conditional appropriation of a sub-division of a main division within a vote to ensure that the money requested for the main division will be spent effectively, efficiently and economically must:
 - (i) consider comments from the Member of the Executive Council who is responsible for financial matters in the province or any other Member of the Executive Council; and
 - (ii) specify the conditions that need to be met before the provincial legislature may resolve to release the funds.]
- (g) A provincial legislature may appropriate an amount specifically and exclusively for a purpose mentioned under a main division within a vote.
- (h) A provincial legislature must pass, with or without amendments, or reject the provincial annual budget within four months after the start of the financial year to which it relates.
- (i) Notwithstanding any provision in this legislation, a provincial legislature or a committee may consider an amendment to a money Bill proposed by the Member of the Executive Council who is responsible for financial matters in the province in order to make technical corrections to the Bill.”.

Substitution of long title of Act 9 of 2009

18. The following long title is hereby substituted for the long title of the principal 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 connected therewith.”.

Short Title

19. This Act is called the Money Bills Amendment Procedure and Related Matters Amendment Act, 2017.

**MEMORANDUM ON THE OBJECTS OF THE MONEY BILLS AMENDMENT
PROCEDURE AND RELATED MATTERS
AMENDMENT BILL, 2017 (AS INTRODUCED BY THE STANDING
COMMITTEE ON FINANCE)**

1. INTRODUCTION

A resolution of the National Assembly mandated the review the Money Bills Amendment Procedure and Related Matters Act, 2008 (Act No. 9 of 2009) (“the Act”). The Act assigns functions that are not aligned with the present resource allocation and it therefore became necessary to review the practicability of the Act.

2. CONTENTS OF BILL

Clause 1

This clause seeks to amend various definitions as well as inserting a few new definitions.

Clause 2

This clause seeks to confirm that in addition to all money Bills, the Act further applies to all division of revenue Bills, the medium term budget policy statement, the fiscal framework and amendments to any of these instruments.

Clause 3

The proposed amendments to section 4 of the Act seek to clarify the powers of the committees on finance and appropriations.

Clause 4

Section 5 of the Act is amended to correct the heading; to clarify what the committees of the National Assembly must consider when assessing the performance of departments; and to make

it clear at the budget and recommendation reports must be submitted at the discretion of a committee of the National Assembly.

Clause 5

This clause seeks to amend the following timeframes:

- the submission of the medium term budget policy statement,
- when the committees on finance must report to the respective Houses,
- when the committees on appropriations must report to the respective Houses, and
- when a report must be submitted to the Minister of Finance.

The clause further seeks to correct certain inconsistencies about what the medium term budget policy statement must include as well as certain drafting errors.

Clause 6

The clause provides for an amendment to the heading of section 7 of the Act; the simultaneous tabling of the Division of Revenue Bill with the national budget and Appropriation Bill; the time period relating to the financial year in question; and certain consequential amendments.

Clause 7

The heading to section 8 is amended; certain textual corrections are effected and the time period by when the committees on finance must report to the respective Houses is amended.

Clause 8

This clause amongst other things proposes an amendment to the time period within which Parliament must pass the Division of Revenue bill.

Clause 9

This clause proposes certain textual amendments to section 10 of the Act.

Clause 10

This clause seeks to amend the heading and effect certain textual amendments to section 11 of the Act.

Clause 11

This amendment proposes:

- a shift from the mandatory tabling of a national adjustments budget to a discretionary tabling thereof;
- certain textual amendments;
- a correction of the anomaly that the Division of Revenue Amendment Bill was referred to a joint sitting of committees on appropriations;
- the removal of the time period by when the committees on appropriations must report to their respective Houses on the Division of Revenue Amendment Bill; and
- the sequential reporting of the Adjustments Appropriation Bill and the Division of Revenue Amendment Bill.

Clause 12

This clause proposes an amendment to the heading to the section 13 as well as certain textual amendments to that section.

Clause 13

This amendment proposes that the Parliamentary Budget Office should be a juristic person. It further proposes that the Director of the Parliamentary Budget Office be employed on a performance based, renewable five-year fixed term contract. It clarifies the transfer of funds must be in accordance with section 35 of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No. 10 of 2009). The proposed amendment further provides that the Director is the Accounting Officer of the Parliamentary Budget Office and sets out the reporting lines. The amendment proposes that an advisory committee instead of the committees referred to in section 4 of the Act take over the function of nominating a

replacement if the Director's position becomes vacant. Furthermore, the amendment proposes conferring on the Parliamentary Budget Office the power to obtain certain information.

Clause 14

This amendment seeks to reflect the proposed amendments to the Schedule of the Act.

Clause 15

This clause seeks to confer the power to make regulations on the Executive Authority.

Clause 16

This clause proposes amending the Short title of the Act.

Clause 17

This clause proposes amending the Schedule to the Act.

Clause 18

This clause seeks to amend the Long title of the Act.

Clause 19

This clause contains the Short title of the Amendment Act.

3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

None

4. FINANCIAL IMPLICATIONS FOR STATE

None

5. DEPARTMENTS/BODIES/PERSONS CONSULTED

The following stakeholders were consulted—

- Standing Committee on Appropriations
- Select Committee on Finance
- Select Committee on Appropriations
- The Parliamentary Budget Office
- National Treasury

6. CONSTITUTIONAL IMPLICATIONS

None

7. PARLIAMENTARY PROCEDURE

- 7.1. The Committee proposes that this Committee Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution, 1996 since it contains no provisions to which the procedures set out in section 74 or 76 of the Constitution apply.
- 7.2 The Committee is of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.