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**GENERAL NOTICE**

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**NOTICE 1941 OF 2005****PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA****PUBLICATION OF DRAFT FINANCIAL MANAGEMENT OF PARLIAMENT BILL, 2005**

A draft Financial Management of Parliament Bill, 2005, as presented to the Speaker of the National Assembly by the Portfolio Committee on Finance, is hereby published for comment.

Interested persons and institutions are invited to submit written comments on the draft legislation before 17 November 2005, to the following person:

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**Z A Dingani**

**Secretary to Parliament**

**28 October 2005**

## FINANCIAL MANAGEMENT OF PARLIAMENT BILL, 2005

## 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 transparency, accountability 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: —

## BILL

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 and effectively; to provide for the responsibilities of persons entrusted with financial management in Parliament; and to provide for matters connected therewith. 5

### ARRANGEMENT OF SECTIONS

PREAMBLE 10

#### CHAPTER 1

#### INTERPRETATION AND OBJECTS

1. Definitions
2. Objects of this Act

CHAPTER 2 15

#### EXECUTIVE AUTHORITY AND ADMINISTRATION OF ACT

##### Part 1: Executive Authority

3. Executive Authority

##### Part 2: Administration of Act

4. Accounting officer 20
5. General financial management functions
6. Performance of Accounting Officer
7. Acting Accounting Officer
8. Delegation of powers and duties by Accounting Officer
9. Responsibilities of officials 25
10. Fiduciary responsibilities

**CHAPTER 3****PLANNING AND BUDGETING**

11.	Preparation of strategic plan, annual performance plan and budget	
12.	Strategic plan	
13.	Annual performance plan	5
14.	Annual Budget	
15.	Submission of strategic plan, annual performance plan and budget	
16.	Annual appropriations and approvals	
17.	Expenditure before national annual budget is passed	
18.	Unauthorised expenditure	10
19.	Virement between main divisions within vote	
20.	Roll-over of unspent funds	
21.	Surrender of voted surplus funds	

**CHAPTER 4****CASH MANAGEMENT AND INVESTMENT 15**

22.	Cash management and investment policy	
23.	Opening of bank accounts	
24.	Control of bank accounts	
25.	Withdrawals from bank accounts	
26.	Restrictions on borrowing, guarantees and other transactions	20
27.	Requisitioning of funds by Accounting Officer	

**CHAPTER 5****FINANCIAL MANAGEMENT**

28.	Asset and liability management	
29.	Revenue management	25
30.	Management of debtors	
31.	Expenditure management	
32.	Support for political parties	
33.	Constituency funds	
34.	Transfers	30
35.	Budget implementation	
36.	Executive instructions with financial implications	
37.	Impending shortfalls and overspending	

**CHAPTER 6****SUPPLY CHAIN MANAGEMENT 35**

38.	Application of this Chapter	
39.	Supply chain management policy	
40.	Implementation of system	
41.	Unsolicited offers	
42.	Tenders not recommended	40
43.	Members of Parliament barred from serving on tender committees	
44.	Interference	
45.	Prohibition on contracts	

**CHAPTER 7****AUDIT COMMITTEE AND INTERNAL AUDIT UNIT 45**

46.	Establishment of audit committee	
47.	Functions of audit of committee	
48.	Allegations against Accounting Officer	
49.	Internal audit unit	

**CHAPTER 8  
REPORTING AND AUDITING**

**Part 1: In-year reporting**

50.	Monthly financial statements	
51.	Quarterly performance reports	5
52.	Mid-year budget and performance assessment	
53.	Submission of reports to committee	

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

54.	Preparation of annual reports	
55.	Preparation of financial statements	10
56.	Submission of annual financial statements	
57.	Auditing of annual financial statements	
58.	Submission of annual report	
59.	Tabling and consideration of annual report	
60.	Issues raised in audit reports	15
61.	Consequences of non-compliance with certain provisions	

**Part 3: General reporting responsibilities**

62.	Reporting of irregularities	
63.	Other information	

**CHAPTER 9** 20

**REGULATIONS AND INSTRUCTIONS**

64.	Regulations and instructions	
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**CHAPTER 10**

**FINANCIAL MISCONDUCT**

**Part 1: Disciplinary proceedings** 25

65.	Financial misconduct by Accounting Officer	
66.	Financial misconduct by officials	

**Part 2: Criminal proceedings**

67.	Offences	
68.	Penalties	30

**CHAPTER 11**

**MISCELLANEOUS**

69.	Functioning of committees	
70.	Liability of functionaries exercising powers and functions in terms of this Act	35
71.	Repeal of legislation	
72.	Short title and commencement	

**SCHEDULE 1**

Norms and standards for provincial legislatures

**SCHEDULE 2** 40

Code of Ethics for members of the Executive Authority

**SCHEDULE 3**

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

## CHAPTER 1

## INTERPRETATION AND OBJECTS

## Definitions

1. (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; 5
- “**Accounting Standards Board**” means the board established in terms of section 87 of the Public Finance Management Act;
- “**annual report**”, means the annual report referred to in section 54;
- “**approved budget**” means Parliament’s vote on the national annual budget as approved by Parliament or revised in an adjustments budget by Parliament; 10
- “**Committee on Public Accounts**” means the **Standing Committee on Public Accounts established in terms of the Rules of the National Assembly or any successor committee established to perform its functions;**
- “**Executive Authority**” means the Speaker of the National Assembly and the Chairperson of the National Council of Provinces, acting jointly; 15
- “**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; 20
- “**main division**” means one of the main segments into which Parliament’s vote is divided and which specifies the total amount which is appropriated for the items under that segment; 25
- “**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;
- “**overspending**”—
- (a) in relation to the vote of Parliament, means causing expenditure under the vote to exceed the amount appropriated for the vote; or 30
- (b) in relation to a main division within the vote of Parliament, means causing expenditure under the main division to exceed the amount appropriated for that main division;
- “**prescribe**” means prescribe by regulation in accordance with section 63; 35
- “**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; 40
- (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 in material respects with standards issued by the Minister of Finance on the advice of the Accounting Standards Board; 45
- “**unauthorised expenditure**” means—
- (a) overspending of Parliament’s vote or a main division within that vote;
- (b) any expenditure from Parliament’s vote or a main division within the vote for a purpose unrelated to the vote or main division, subject to section 19;
- (c) any expenditure of money for a purpose for which funds have not been appropriated or approved; or 50
- (d) any expenditure of donor funds for a purpose other than that specified in the agreement with the donor;
- “**vote**” means Parliament’s vote on the national annual budget referred to in section 28 (1) of the Public Finance Management Act; 55
- (2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

**Objects of this Act**

- 2. (1)** 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— 5
    - (i) the constitutional status of Parliament;
    - (ii) the constitutional requirements for the tabling of money bills;
    - (iii) the budget processes, generally recognised accounting practice, uniform expenditure classifications and the treasury norms and standards established in terms of the Public Finance Management Act; and 10
    - (iv) the fiscal policy of the national government;
  - (c) to provide the National Treasury with — 15
    - (i) an opportunity to make comments on proposed annual budget 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
    - (iii) regular information on expenditure by Parliament; 20
  - (d) to provide for parliamentary oversight of Parliament's budgeting and expenditure through joint committees of Parliament;
  - (e) to establish norms and standards for the managing the financial affairs of Parliament and the provincial legislatures.
- (2) Provincial legislatures must adhere to the norms and standards for financial management set out in Schedule 1. 25

**CHAPTER 2****EXECUTIVE AUTHORITY AND ADMINISTRATION OF ACT***Part 1: Executive Authority***Executive Authority** 30

- 3. (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. 35

*Part 2: Administration of Act***Accounting officer**

- 4. (1)** This Act is administered under the control of the Executive Authority by the Secretary to Parliament who is the Accounting Officer of Parliament. 40
- (2)** The Accounting Officer is accountable to the Executive Authority for the financial management of Parliament.

**General financial management functions**

- 5.** The Accounting Officer must ensure that—
- (a) Parliament's resources are used effectively, efficiently, economically and transparently; 45
  - (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;
  - (d) Parliament has appropriate systems to manage the performance of its officials; 50
  - (e) there are suitable training and awareness programmes related to financial management for officers of Parliament;

- (f) unauthorised, irregular and fruitless and wasteful expenditure and other losses are prevented; and
- (g) disciplinary or, when appropriate, criminal proceedings are instituted against any official who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 10. 5

#### Performance of Accounting Officer

6. (1) The Executive Authority and the Accounting Officer must annually conclude a written performance agreement for the Accounting Officer.
- (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 month after the start of each financial year; 10
  - (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** 15
  - (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. 20

#### Acting Accounting Officer

7. 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—
- (a) the Deputy Secretary to Parliament; or 25
  - (b) if the post of Deputy Secretary is vacant, or the Deputy Secretary is unable to perform those functions, another official of Parliament designated in writing by the Executive Authority.

#### Delegation of powers and duties by Accounting Officer

8. (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. 30
- (2) The system of delegation must be developed with the concurrence of the Executive Authority and must—
- (a) maximise administrative and operational efficiency; and 35
  - (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.
- (4) A delegation in terms of subsection (1)— 40
- (a) must be in writing;
  - (b) is subject to any limitations and conditions the Accounting Officer may impose;
  - (c) may be to an individual or to the holder of a specific post in the administration of Parliament; 45
  - (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**
  - (e) does not divest the Accounting Officer of responsibility for the exercise of the delegated power or the performance of the delegated duty. 50
- (5) The Accounting Officer may confirm, vary or revoke any decision taken by an official in terms of a delegation under subsection (2), subject to any rights that may have become vested as a consequence of the decision,



## Responsibilities of officials

- 9.** (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 delegations in terms of section 8; and
  - (c) take all reasonable steps within that official's area of responsibility to ensure —
    - (i) that Parliament's system of financial management and internal control is implemented diligently;
    - (ii) that Parliament's financial and other resources are used effectively, efficiently, economically and transparently;
    - (iii) that 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) that all revenue due to Parliament is collected; and
    - (v) that Parliament's assets and liabilities are managed effectively, and that assets are safeguarded and maintained to the extent necessary.

## Fiduciary responsibilities

- 10.** (1) The Accounting Officer and other officials with responsibility under this Act must —
- (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
  - (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.
- (3) No one having 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.

## CHAPTER 3

## PLANNING AND BUDGETING

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

- 11.** (1) The Executive Authority must—
- (a) oversee the preparation of a Parliament's strategic plan, annual performance plan and budget accordance with this Chapter;
  - (b) approve the strategic plan, annual performance plan and budget for submission to a joint committee of Parliament.

## Strategic plan

- 12.** (1) Within six months after a general election, or by another date determined by Parliament, the Accounting Officer must prepare and present a strategic plan for Parliament's administration to the Executive Authority.
- (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;
  - (d) include multi-year projections of revenue and expenditure; and
  - (e) include performance measures and indicators for assessing the administration's performance in implementing the strategic plan.

**Annual performance plan**

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

- (2) The annual performance plan must— 5
- (a) cover the following financial year and the two financial years thereafter or other period determined by Parliament;
  - (b) indicate any changes to Parliament's priorities as set out in the strategic plan prepared in terms of section 12;
  - (c) update the projections of revenue and expenditure presented in the strategic plan; 10
  - (d) specify performance targets related to each of the performance measures and indicators for assessing Parliament's performance in achieving its objectives and outcomes; and
  - (e) provide details of Parliament's donor funded projects, including 15
    - (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****20**

**14.** (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—
- (a) cover the following financial year and the two financial years thereafter or other period determined by Parliament; 25
  - (b) specify Parliament's expected revenues distinguishing between—
    - (i) funds to be appropriated through the annual national budget;
    - (ii) funds that are a direct charge against the National Revenue Fund; 30
    - 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); 35
  - (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—
    - (i) allocations of support for political parties represented in Parliament; 40
    - (ii) constituency funds for political parties; and
    - (iii) transfers to other entities;
  - (f) contain a schedule of the planned expenditure under Parliament's donor funded projects; and
  - (g) be in accordance with the format prescribed under section 27(3) of the Public Finance Management Act. 45

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

**15.** (1) The Executive Authority must submit to an appropriate joint committee for approval—

- (a) the draft strategic plan of Parliament within ten working days of receiving it from the Accounting Officer; and 50
- (b) the draft annual performance plan and draft budget at least one month before the draft budget must be submitted to the National Treasury.

1. These matters are dealt with in section 32 of 34.

- (2) The Executive Authority must:
- (a) in consultation with the Minister of Finance, determine a process for submitting Parliament's budget to the National Treasury;
  - (b) consult with the Minister of Finance before the draft budget is submitted to the National Treasury; 5
  - (c) submit the draft budget to the National Treasury by a date agreed to with the Minister of Finance; and
  - (d) represent Parliament in any discussions with the Minister of Finance on any aspect of Parliament's budget.
- (3) The members of the Executive Authority, the Deputy Speaker of the National Assembly and the permanent Deputy Chairperson of the National Council of Provinces— 10
- (a) may not be members of the committee referred to in subsection (3)(a); and
  - (b) may participate in the deliberations of the Committee at the request of the Committee. 15
- (4) The committee may require the Accounting Officer and any other official of Parliament to appear before it.

#### Annual appropriations and approvals

16. (1) For each financial year, Parliament must—
- (a) appropriate the funds identified in terms of section 14(2)(b)(i) in the national annual budget referred to in section 27 (1) of the Public Finance Management Act; 20
  - (b) approve the use of the funds identified in terms of section 14(2)(b)(iii) before the start of the financial year.
- (2) Any revision of an appropriation in terms of subsection (1) must be made by a national adjustments budget referred to in section 30 of the Public Finance Management Act. 25

#### Expenditure before national annual budget is passed

17. (1) If the national annual budget is not passed before the start of the financial year, funds may be withdrawn from the National Revenue Fund for the requirements of Parliament during that financial year as direct charges against the Fund until the budget is passed. 30
- (2) Funds withdrawn from the National Revenue Fund in terms of subsection (1) -
- (a) may be used only for services for which funds were appropriated in the previous annual budget or adjustments budget; and 35
  - (b) may not—
    - (i) during the first four months of that financial year, exceed 45 per cent of the total amount appropriated in the previous annual budget;
    - (ii) during each of the following months, exceed ten per cent of the total amount appropriated in the previous annual budget; and 40
    - (iii) in aggregate, exceed the total amount appropriated in the previous annual budget.
- (3) The funds provided for in subsection (1) are not additional to funds appropriated for the relevant financial year, and any funds withdrawn in terms of that subsection must be regarded as forming part of the funds appropriated in the budget for that financial year. 45

#### Unauthorised expenditure

18. (1) Unauthorised expenditure incurred by Parliament does not become a charge against the National Revenue Fund, unless—
- (a) the expenditure is an overspending of a vote and Parliament appropriates an additional amount for that vote which covers the overspending; or 50
  - (b) the expenditure is unauthorised for another reason and Parliament authorises the expenditure as a direct charge against the National Revenue Fund.
- (2) Parliament must advise the National Treasury of any unauthorised expenditure that has been authorised in terms of subsection (1). 55
- (3) If Parliament authorises unauthorised expenditure contemplated in sub-section (1) but does not appropriate an additional amount covering the amount of the unauthorised

expenditure, the unauthorised expenditure becomes a charge against the funds of Parliament.

#### **Virement between main divisions within vote**

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

(2) The amount of a saving under a main division of Parliament's vote that may be used in terms of subsection (1), may not exceed eight per cent of the amount appropriated under that main division. 10

(3) This section does not authorise the use of a saving of an amount—

- (a) specifically and exclusively appropriated for a purpose mentioned under a main division within the vote;
- (b) appropriated for transfer to another institution;
- (c) appropriated for capital expenditure in order to defray current expenditure; or 15
- (d) that is a direct charge against the National Revenue Fund in order to supplement Parliament's appropriated funds.

(4) The Executive Authority may make regulations or issue instructions in accordance with section 63 concerning the application of this section.

#### **Roll-over of unspent funds** 20

**20.** (1) Funds appropriated for, but not spent in, a particular financial year may be rolled over to a subsequent year subject to—

- (a) the approval of the Executive Authority; and
- (b) reappropriation in the adjustments budget in terms of section 30 of the Public Finance Management Act. 25

(2) Any roll over must comply with the following conditions:

- (a) savings in respect of funds that are a direct charge against the National Revenue Fund may not be rolled over.
- (b) unspent funds on payments for capital assets may be rolled over only to finalise projects or asset acquisitions still in progress. 30
- (c) savings on transfers and subsidies may not be rolled over for purposes other than originally appropriated.
- (d) savings on funds appropriated for personnel expenditure may not be rolled over.
- (e) a maximum of five per cent of Parliament's funds appropriated for goods and services may be rolled over. 35

(3) The Executive Authority must submit information on the roll-over of unspent funds to the National Treasury on or before the last working day of April for inclusion in the appropriate national adjustments budget.

(4) Parliament's own revenues that are approved for in respect of a particular financial year, but not spent in that year, may not be rolled over but must be approved in the following financial year 40

#### **Surrender of voted surplus funds**

**21.** (1) Funds that are a direct charge against the National Revenue Fund and that are unspent at the end of a financial year must be returned to the National Revenue Fund. 45

(2) Appropriated funds that are unspent at the end of a financial year and are not rolled over to a subsequent financial year in accordance with section 20 must be returned to the National Revenue Fund.

## CHAPTER 4

## CASH MANAGEMENT AND INVESTMENT

**Cash management and investment policy**

- 22.** (1) The Executive Authority must prescribe an appropriate policy — 5  
 (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).

**Opening of bank accounts**

- 23.** (1) The Accounting Officer, with the approval of the Executive Authority, and in accordance with the policy referred to in section 22, must open and maintain— 10  
 (a) a bank account into which all money received by Parliament must promptly be paid; and  
 (b) such other bank accounts as are necessary for the effective and efficient management of Parliament's funds. 15  
 (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  
 (c) otherwise than in the name of Parliament. 20  
 (3) A bank account opened in terms of this section does not form part of the National Revenue Fund.

**Control of bank accounts**

- 24.** The Accounting Officer—  
 (a) must administer all of Parliament's bank accounts; 25  
 (b) is accountable to the Executive Authority for Parliament's bank accounts; and  
 (c) must enforce compliance with section 25.

**Withdrawals from bank accounts**

- 25.** (1) Only the Accounting Officer, or an official to whom that power has been delegated in terms of section 8, may withdraw money, or authorise the withdrawal of money, from any of Parliament's bank accounts. 30  
 (2) A delegation in terms of subsection (1) must be in accordance with the policy made in terms of section 22.  
 (3) Money may be withdrawn from one of Parliament's bank accounts 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; 35  
 (b) defraying expenditure incurred in relation to a donor funded project;  
 (c) refunding money incorrectly paid into a bank account;  
 (d) to make other refunds approved by the Executive Authority; or 40  
 (e) cash management or investment purposes in accordance with the policy made in terms of section 22.

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

- 26.** (1) Parliament may not—  
 (a) borrow money; 45  
 (b) issue a guarantee, indemnity or security, or  
 (c) enter into any other similar transaction that binds or may bind it to any future financial commitment.  
 (2) Neither the state nor Parliament is bound by a loan transaction, guarantee, indemnity, security or other transaction entered into or concluded in breach of subsection (1). 50

- (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 staff members;
  - (b) entering into any lease agreement to obtain 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 of the statement.

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

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

### **CHAPTER 5**

#### **FINANCIAL MANAGEMENT**

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

28. (1) The Accounting Officer is responsible for managing— 15
- (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 a management, accounting and information system that accounts for its assets and liabilities; 20
  - (b) Parliament's assets and liabilities are valued in accordance with generally recognised accounting practice; and
  - (c) Parliament maintains a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed.

##### **Revenue management 25**

29. (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 in accordance with this Act into the bank account contemplated by section 23(1)(a); 30
  - (c) Parliament maintains a management, accounting and information system which —
    - (i) recognises revenue when it is earned; and
    - (ii) accounts for receipts of revenue;
  - (d) Parliament maintains a system of internal control in respect of revenue; and 35
  - (e) all revenue received by Parliament is reconciled at least on a weekly basis.

##### **Management of debtors**

30. (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 40
  - (b) if appropriate, instituting legal proceedings.
- (2) An Accounting Officer may settle or write off a debt only in accordance with a prescribed policy.
- (3) Interest must be charged on any debt owed to Parliament in accordance with a prescribed policy. 45

##### **Expenditure management**

31. (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 — 50

- (a) Parliament maintains an effective system of expenditure control, which includes procedures for the approval and authorisation of the withdrawal and payment of funds;
- (b) Parliament maintains a management, accounting and information system which— 5
- (i) recognises expenditure when it is incurred;
  - (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; 10
- (d) Parliament makes payment—
- (i) directly to the person to whom it is due unless agreed otherwise or for good reason; and
  - (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; 15
- (e) all amounts owed by Parliament are paid within 30 days of receiving the relevant invoice or statement, unless agreed otherwise; and
- (f) all financial accounts of Parliament are closed at the end of each month and reconciled with its records. 20

#### Support for political parties

32. (1) Allocations for support for political parties represented in Parliament may be used only in accordance with a policy adopted by Parliament.
- (2) ~~Thirty~~ **Thirty** days prior to the beginning of each financial year, each political party must submit to the Accounting Officer an expenditure plan approved by the caucus of the party, that conforms with the policy contemplated by sub-section (1). 25

#### Constituency funds

33. (1) Constituency funds transferred to political parties represented in Parliament may be used only in accordance with a policy adopted by Parliament.
- (2) Before transferring any funds to a party, the Accounting Officer must— 30
- (a) obtain a written assurance from the party it has financial management systems that will enable it to account separately for the use of constituency funds; or
  - (b) if such an assurance is not or cannot be given, the Accounting Officer must render the transfer of the funds subject to conditions requiring the political party to establish and implement the required financial management systems. 35
- (3) ~~Two~~ **Two** months ~~after~~ the end of the financial year, the each political party must submit to the Executive Authority and the Auditor-General financial statements in the prescribed format reflecting the use of the constituency funds.
- (4) The Auditor-General must—
- (a) audit the financial statements; 40
  - (b) submit an audit report on those statements to the Executive Authority within two months of receiving them; and
  - (c) recover the audit costs from Parliament.
- (5) Within five days of receiving an audit report, the Executive Authority must table it and the relevant financial statements in Parliament. 45
- (6) Should a party not submit the financial statements to the Accounting Officer within two months after the end of a financial year, the party will forfeit one tenth of its constituency funds for each month or part thereof that the financial statements are late.

#### Transfers

34. Before transferring any funds to any entity, whether within or outside government, the Accounting Officer must obtain— 50
- (a) a written assurance from the entity that it implements effective, efficient and transparent financial management and internal control systems; 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. 55

**Budget implementation**

35. The Accounting Officer is responsible for implementing Parliament's budget and must ensure that—

- (a) spending is in accordance with the approved budget; and
- (b) revenue and expenditure are properly monitored. 5

**Executive instructions with financial implications**

36. (1) Any directive by the Executive Authority to the Accounting Officer that **has** financial implications must be in writing.

(2) If implementation of a directive is likely to result in unauthorised expenditure, the Accounting Officer will be responsible for any resulting unauthorised expenditure, unless the Accounting Officer has informed the Executive Authority in writing of the likelihood of that unauthorised expenditure. 10

- (3) If the Executive Authority decides to proceed with the implementation of such a directive, the decision and the reasons for it, must be in writing, and the Accounting Officer must promptly file a copy of this document with the Auditor-General. 15

**Impending shortfalls and overspending**

37. (1) 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 20
  - (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. 25

**CHAPTER 6****SUPPLY CHAIN MANAGEMENT****Application of this Chapter**

38. This Chapter applies to—

- (a) the procurement by Parliament of goods and services; and 30
- (b) the disposal and letting of Parliament's assets, including the disposal of goods no longer required.

**Supply chain management policy**

39. The Executive Authority must prescribe a supply chain management policy which— 35

- (a) is fair, equitable, transparent, competitive and cost effective;
- (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— 40
  - (i) demand management;
  - (ii) acquisition management;
  - (iii) logistics management;
  - (iv) disposal management; 45
  - (v) risk management; and
  - (vi) regular assessment of supply chain performance;



- (e) complies with other applicable legislation;<sup>2</sup>
- (f) is consistent with the supply chain management policy issued in terms of the Public Finance Management Act; and
- (g) covers at least the matters specified in Schedule 3 to this Act.

### **Implementation of system** 5

#### **40. The Accounting Officer must—**

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

### **Unsolicited offers**

**41. (1)** The Executive Authority may prescribe procedures for considering offers to supply goods or services that are unsolicited or are made otherwise than in accordance with Parliament's prescribed procurement processes. 20

#### **(2) Parliament—**

- (a) is not obliged to consider any offer contemplated in subsection (1);
- (b) may consider an offer contemplated in sub-section (1) only in accordance with the prescribed procedure. 25

### **Tenders not recommended**

**42. (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 in terms of the supply chain management policy.

**(2)** Sub-section (1) does not apply if a contract was concluded in order to rectify an irregularity. 30

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

#### **43. No Member of Parliament may—**

- (a) be a member of a committee evaluating or approving tenders, quotations, contracts or other bids for Parliament 35
- (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.

### **Interference**

#### **44. No person may—** 40

- (a) interfere with the supply chain management system of Parliament;
- (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. 45

<sup>2</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). [PERMANENT FOOTNOTE]

**Prohibition on contracts**

**45.** No contract to provide goods or services to Parliament may be awarded to a Member of Parliament, to a member of a provincial legislature, to a Municipal Councillor, to a person in the employ of the State or to any entity in which such a person is a Director or has a controlling or other substantial interest. 5

**CHAPTER 7****AUDIT COMMITTEE AND INTERNAL AUDIT UNIT****Establishment of audit committee**

**46.** (1) Parliament must have an audit committee appointed by the Executive Authority. 10

(2) The committee must—

(a) be constituted in a manner that ensures its independence; and

(b) consist of at least six persons with appropriate experience.

(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 15

(b) have no personal or financial interest in any matter related to the financial management of Parliament.

(4) The Executive Authority must appoint one of the members contemplated by subsection (3) as the chairperson of the committee. 20

(5) The terms of appointment and remuneration of members of the audit committee contemplated by subsection (3) must be consistent with the requirements for audit committees prescribed under the Public Finance Management Act.

(6) A member of the audit committee who has a personal or financial interest in any matter before the committee must disclose that interest and withdraw from the proceedings of the committee when that matter is considered. 25

**Functions of audit of committee**

**47.** (1) The audit committee must—

(a) establish an audit charter to—

(i) guide its audit approach and that of the internal audit unit; 30

(ii) set out its operating procedures; and

(iii) determine the rules that govern its relationship with the internal audit unit and the Accounting Officer;

(b) carry out such investigations into Parliament's financial and risk management as it considers necessary or are requested by the Accounting Officer; 35

(c) in the annual report of Parliament, comment on—

(i) the effectiveness of internal control;

(ii) the quality of financial management and reports compiled by the Accounting Officer in terms of this Act; and

(iii) the quality of the annual financial statements; 40

(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— 45

(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— 50

(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

**48.** 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.

Internal audit unit 5

**49. (1)** Parliament must have an internal audit unit established by the Accounting Officer which must conduct internal audits in accordance with the relevant standards prescribed for public entities in terms of the Public Finance Management Act.

(2) The unit must prepare for the approval of the audit committee—

(a) operating procedures to guide its relationship with the administration of Parliament; 10

(b) a three-year risk-based audit plan; and

(c) an internal audit program for each financial year setting out the proposed scope of each audit.

(3) The unit must report quarterly to the audit committee on its performance against the annual audit plan. 15

(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. 20

## CHAPTER 8

## REPORTING AND AUDITING

*Part 1: In-year reporting*

## Monthly financial statements

**50. (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,<sup>3</sup> 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— 25

(a) actual revenue by revenue source;

(b) actual expenditure by main division; 30

(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 35

(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. 40

(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

**51.** 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. 45

<sup>3</sup> The purpose of this section is to enable Treasury to publish comprehensive expenditure figures for the public sector on a monthly basis.

## Mid-year budget and performance assessment

- 52.** (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 —
- (a) the monthly statements referred to in section 43 for the first half of the financial year; 5
  - (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. 10
- (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. 10

## Submission of reports to committee

- 53.** The Executive Authority must table the monthly, quarterly and mid-year reports in Parliament for referral to the committee referred to in section 15(1) within five working days of receiving the reports. 15

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

## Preparation of annual reports

- 54.** (1) For each financial year, the Accounting Officer must prepare an annual report. 20
- (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;
  - (b) provide a report on performance of Parliament's administration; and
  - (c) promote accountability for decisions made during the year by Parliament's administration. 25
- (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; 30
  - (b) any explanations that may be necessary to clarify the financial statements;
  - (c) the Auditor-General's audit report on those financial statements;
  - (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; 35
  - (e) particulars of any corrective action taken or to be taken in response to issues raised in the audit report referred to in paragraph (b);
  - (f) the audit committee's report; and
  - (g) any other prescribed information. 40

## Preparation of financial statements 40

- 55.** (1) For each financial year, the Accounting Officer must prepare annual financial statements in accordance with generally recognised accounting practice and in the format prescribed in terms of the Public Finance Management Act.<sup>4</sup>
- (2) The notes to the annual financial statements must —
- (a) include particulars of the remuneration of officials of Parliament, whether financial or in kind; 45
  - (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 50

**4.** The format of financial statements is drawn up by the Office of the Accountant General, within the National Treasury, and prescribed in the Treasury Regulations by the Minister of Finance. It is very important that these statements are prepared on a consistent basis across government, including the Legislatures, to enable the publication of accessible and consistent information.

- (ii) year opening and year end balances in each of these bank accounts; and
- (c) provide a summary of all investments of Parliament as at the end of the financial year; and
- (d) provide particulars of— 5
  - (i) any material losses and any material unauthorised, irregular or fruitless and wasteful expenditures that occurred during the financial year and whether these are recoverable;
  - (ii) any criminal or disciplinary steps instituted as a result of such losses or unauthorised, irregular or fruitless and wasteful expenditures; 10
    - and
  - (iii) any material losses written off.

### Submission of annual financial statements

56. Within two months after the end of the financial year, the Accounting Officer must submit the annual financial statements— 15
- (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

57. (1) The Auditor-General must— 20
- (a) audit the financial statements submitted in terms of section 48; 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. 25
- (3) Once the Auditor-General has submitted an audit report to the Executive Authority, no person other than the Auditor-General may alter the report or the annual financial statements to which the report relates.

### Submission of annual report 30

58. The Accounting Officer must submit Parliament's annual report to the Executive Authority within five months of the end of the financial year concerned.

### Tabling and consideration of annual report

59. (1) The Executive Authority must table the annual report in Parliament within five working days of receiving it. 35
- (2) The annual report, including the audited financial statements and audit report, must be made public.
- (3) The audited financial statements of Parliament and the audit report must be referred to the Committee on Public Accounts.
- (4) The annual report of Parliament must be referred to the joint committee referred to in section 15(1) for consideration. 40

### Issues raised in audit reports

60. The Accounting Officer must—
- (a) promptly address any issues raised by the Auditor-General in an audit report; and 45
  - (b) advise the Executive Authority of the steps taken to address the issues.

### Consequences of non-compliance with certain provisions

61. (1) If the Accounting Officer does not submit the annual financial statements to the Auditor-General in accordance with section 56(a)— 50
- (a) the Accounting Officer must promptly submit a written explanation setting out the reasons for the failure to—

- (i) the Auditor-General; and
- (ii) the Executive Authority; and
- (b) the Executive Authority—
  - (i) must report to Parliament concerning the failure; 5
  - (ii) must take appropriate steps to ensure that the financial statements are submitted for auditing; and
  - (iii) may order that disciplinary steps be taken against the Accounting Officer or other person responsible for the failure; and
- (c) the Auditor-General may issue a special report on such failure to Parliament which must be made public. 10
- (2) If the Executive Authority does not table the annual report in Parliament in accordance with section 59—
  - (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 15
    - (iii) may order that disciplinary steps be taken against the Accounting Officer or other person responsible for the failure; and
  - (b) the Auditor-General—
    - (i) must submit the audited financial statements and audit report to Parliament for tabling; and 20
    - (ii) may issue a special report on the delay.

### *Part 3: General reporting responsibilities*

#### **Reporting of irregularities**

**62.** The Accounting Officer must report particulars of any unauthorised, irregular or fruitless and wasteful expenditure to the Executive Authority immediately on discovery. 25

#### **Other information**

**63.** The Accounting Officer must comply with any request by the Executive Authority, the National Treasury or the Auditor-General for information, returns, documents, explanations and motivations. 30

## **CHAPTER 9**

### **REGULATIONS AND INSTRUCTIONS**

#### **Regulations and instructions**

- 64.** (1) The Executive Authority may make regulations or issue instructions not inconsistent with this Act concerning— 35
- (a) any matter in respect of which this Act authorises regulations or instructions;<sup>5</sup>
  - (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; 40
  - (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; 45
  - (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; 50

5. Matters listed in section 63(1) could be listed in a Schedule to the Act.

- (k) the cancellation or variation of contracts 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;
  - (o) gifts or donations to officials of Parliament; 5
  - (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.
- (3) Regulations issued by the Executive Authority in terms of sub-section (1) may come into effect only after they have been approved by Parliament. 15
- (4) The Accounting Officer must publish all regulations issued by the Executive Authority after their approval by Parliament.

## CHAPTER 10

### FINANCIAL MISCONDUCT 20

#### *Part 1: Disciplinary proceedings*

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

- 65. (1)** The Accounting Officer commits an act of financial misconduct if the Accounting Officer deliberately or negligently —
- (a) contravenes a provision of this Act; 25
  - (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. 30
- (2) The Executive Authority must —
- (a) investigate promptly any allegation of financial misconduct against the Accounting Officer, unless it is obviously unfounded; and 35
  - (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**

- 66. (1)** An official of Parliament to whom a power or duty was delegated in terms of section 8, commits an act of financial misconduct if that official deliberately or negligently — 40
- (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 45
  - (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 50
  - (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*

## Offences

- 67.** (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 5, 28(2)(a) or (c), 29(2)(a) or (c) or 31 (2) (a), (b), (c), (d) or (f); **5**
    - (ii) fail to take all reasonable steps to prevent unauthorised, irregular or fruitless and wasteful expenditure; or
  - (b) contravene section 10 (3) (b);
  - (c) fail to take all reasonable steps to prevent corrupt practices — **10**
    - (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 **15**
  - (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 any official— **20**
- (a) to whom a power or duty is delegated in terms of section 8, deliberately or in a grossly negligent way to contravene or fail to comply with the delegation or a condition of the delegation; or
  - (b) to contravene section 10(3)(b).
- (3) It is an offence for any person to contravene section ~~44~~ or 57 (3). **25**

## Penalties

**68.** A person convicted of an offence in terms of section 60 is liable to imprisonment for a period not exceeding five years or to an appropriate fine determined in terms of applicable legislation or both.

CHAPTER 11 **30**

## MISCELLANEOUS

## Functioning of committees

**69.** The joint parliamentary committee referred to in sections 15 (1) has the powers that committees of Parliament have under sections 56 and 69 of the Constitution.

(2) Representation on such committees must be in accordance with the Joint Rules of Parliament. **35**

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

**70.** 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. **40**

(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. **45**

## Repeal of legislation

**71.** 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— **50**
  - (i) the words "Parliament and" in section 3(1)(d);



- (ii) subparagraph (a) of section 3(2); and
- (iii) sub-paragraph (a)(vi) of section 8(1).

**Short title and commencement**

**72.** This Act is called the Financial Management of Parliament Act, 2005, and takes effect on 1 April 2006.

## 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;
- (b) provide for the accountability of that executive authority to the legislature;
- (c) require budgetary and financial planning processes to be co-ordinated with the processes of the relevant executive organs of state;
- (d) provide for appropriate measures to ensure that the legislature has adequate financial management capacity;
- (e) require the administration of the legislature to put in place a supply chain management system which is fair, equitable, transparent, competitive, cost-effective and which is consistent with the system prescribed in terms of the Public Finance Management Act;
- (f) require the preparation of regular financial statements in accordance with the norms and standards prescribed in the Public Finance Management Act;
- (g) require the internal and external auditing of financial statements; and
- (h) require legislature to comply with the accounting standards issued by the Minister of Finance, on the advice of the Accounting Standards Board.

## SCHEDULE 2

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

It is proposed that a Code of Ethics for members of the Executive Authority should be developed. The Code should supplement, rather than overlap with, the code of ethics for Members of Parliament which Parliament has adopted by resolution.

For instance, following the Executive Members' Ethics Act 82 of 1998 (adopted in compliance with s 96(1) of the Constitution), the Code might supplement Parliament's Code by including provisions requiring members of the Executive Authority to act in good faith and meet their legal obligations; and to refrain from taking other paid work.

The Code might also provide mechanisms for dealing with complaints. The Executive Members' Ethics Act uses the Public Protector for these purposes. An alternative mechanism may be appropriate for Parliament.

Issues of conflicts of interests are already covered by Parliament's code. However, it may be appropriate to include these as the Code will have the status of an Act of Parliament.

### SCHEDULE 3

Matters that must be covered in Parliament's supply change 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;
- (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;
- (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-
  - (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;
- (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;
- (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 employed by the state;
- (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
  - (iii) whose tax matters are not cleared by South African Revenue Service;
- (o) measures for—
  - (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—
  - (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;
  - (i) contract management and dispute settling procedures;
  - (ii) the delegation of Parliament's supply chain management powers and duties to officials of Parliament; and
  - (iii) the circumstances in which a contract or agreement procured through the supply chain management policy of Parliament may be amended by the parties.