

REPUBLIC OF SOUTH AFRICA

MONEY BILLS AMENDMENT PROCEDURE AND RELATED MATTERS BILL

*(As introduced in the National Assembly (proposed section 75; Draft Bill and Memorandum
setting out its objectives published in Government Gazette No. 31238 of 10 July 2008))
(The English text is the official text of the Bill)*

(PORTFOLIO COMMITTEE ON FINANCE)

[B 75—2008]

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BILL

To provide for a procedure to amend money Bills before Parliament and related matters.

Preamble

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

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

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

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

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

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

Definitions

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

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

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

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

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

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

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

“**contingent liabilities**” means implicit government liabilities that may arise out of contractual and non-contractual obligations; 20

- “day”** means any day other than a Saturday, Sunday, public holiday or a day on which Parliament is in recess;
- “Division of Revenue Bill”** means the Bill which must be enacted annually in terms of section 10 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997) pursuant to section 214(1) of the Constitution; 5
- “extra-budgetary revenue and expenditure”** means the financial implication of government transactions that are not included in the annual appropriation act or revenue acts;
- “fiscal framework”** means the framework for a specific financial year that gives effect to the national executive’s macro-economic policy and includes— 10
- (a) estimates of all revenue, budgetary and extra-budgetary specified separately, expected to be raised during that financial year;
 - (b) estimates of all expenditure, budgetary and extra-budgetary specified separately, for that financial year;
 - (c) estimates of borrowing for that financial year; 15
 - (d) estimates of interest and debt servicing charges; and
 - (e) an indication of the contingency reserve necessary for an appropriate response to emergencies or other temporary needs, and other factors based on similar objective criteria;
- “House”** means the National Assembly or the National Council of Provinces, as the case requires; 20
- “joint rules”** means the rules referred to in section 45 of the Constitution;
- “medium term budget policy statement”** means the medium term budget policy statement referred to in section 6;
- “Minister”** means the Cabinet member responsible for national financial matters; 25
- “money Bill”** is a Bill referred to in section 77 of the Constitution, or part of such a Bill;
- “national adjustments budget”** means the national adjustments budget referred to in section 30 of the Public Finance Management Act;
- “national budget”** means the national annual budget referred to in section 27 of the Public Finance Management Act; 30
- “National Treasury”** means the National Treasury established by section 5 of the Public Financial Management Act;
- “Parliament”** means the National Assembly and the National Council of Provinces as envisaged in section 42 of the Constitution; 35
- “Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act 1 of 1999);
- “revenue Bills”** means Bills that impose or abolish national taxes, levies, duties or surcharges or which abolish reduce or grant exemption from any national taxes, levies, duties or surcharges; 40
- “Secretary”** means the Secretary to Parliament;
- “Speaker”** means Speaker of the National Assembly or, when applicable, the office bearer acting as Speaker;
- “standing rules”** means the rules made by the National Assembly or the National Council of Provinces in terms of section 57 or 70 of the Constitution, or the joint rules, as the case requires; 45
- “the Constitution”** means the Constitution of the Republic of South Africa, 1996; and
- “vote”** has the same meaning as defined in the Public Finance Management Act.

Interpretation of this Act 50

2. Every person interpreting or applying this Act must—
- (a) do so in a manner that gives effect to the constitutional authority of the National Assembly and the National Council of Provinces in passing legislation and maintaining oversight of the exercise of national executive authority; and 55
 - (b) take into account the relevant fiscal framework submitted to and adopted by Parliament.

Application of this Act

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

Parliamentary committees for consideration of money Bills

4. (1) Each House must establish a committee on finance. 5
- (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: 5
- (a) the national macro-economic and fiscal policy;
 - (b) amendments to the fiscal framework, revised fiscal framework and revenue proposals and Bills; 10
 - (c) actual revenue published by the National Treasury; and
 - (d) any other related matter set out in this Act.
- (3) Each house must establish a committee on appropriations.
- (4) A committee on appropriations has the powers and functions conferred to it by the Constitution, legislation, the standing rules or a resolution of a House, including considering and reporting on: 15
- (a) spending issues;
 - (b) amendments to the Division of Revenue Bill, the Appropriation Bill, Supplementary Appropriations Bills and the Adjustment Appropriations Bill;
 - (c) recommendations of the Financial and Fiscal Commission, including those referred to in the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997); 20
 - (d) reports on actual expenditure published by the National Treasury; and
 - (e) any other related matter set out in this Act.
- (5) The standing rules must provide for— 25
- (a) the composition of the committees;
 - (b) the election of the chairpersons;
 - (c) the functions of the committees in addition to those stipulated in this Act;
 - (d) consultation between the respective committees on finance of each House;
 - (e) consultation between the respective committees on appropriations of each House; and 30
 - (f) any other related matter.

Procedure prior to introduction of the national budget

5. (1) The National Assembly, through its committees, must annually assess the performance of each national department, with reference to the following: 35
- (a) the medium term estimates of expenditure of each national department, its strategic priorities and measurable objectives, as tabled in the National Assembly with the national budget;
 - (b) prevailing strategic plans;
 - (c) the expenditure report relating to such department published by the National Treasury in terms of section 32 of the Public Finance Management Act; 40
 - (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.
- (2) Committees must annually submit budgetary review and recommendation reports for tabling in the National Assembly for each department. 45
- (3) A budgetary review and recommendation report:
- (a) must provide an assessment of the department's service delivery performance given available resources;
 - (b) must provide an assessment on the effectiveness and efficiency of the departments use and forward allocation of available resources; and 50
 - (c) may include recommendations on the forward use of resources.
- (4) A committee reporting to the National Assembly in terms of this section must submit its budgetary and recommendation report after the adoption of the Appropriation Bill and prior to the adoption of the reports on the Medium Term Budget Policy Statement. 55

(5) Any budgetary review and recommendation report must be submitted to the Minister and the member of Cabinet responsible for the vote to which the report applies after its adoption by the National Assembly and prior to the adoption of the reports on the Medium Term Budget Policy Statement.

(6) Additional budgetary and recommendation reports may be submitted at the discretion of a committee. 5

Medium Term Budget Policy Statement

6. (1) At least three months prior to the introduction of the national budget, the Minister must submit to Parliament a medium term budget policy statement.

(2) The medium term budget policy statement must include: 10

- (a) a revised fiscal framework for the present financial year and the proposed fiscal framework for the next three years;
- (b) an explanation of the macro-economic and fiscal policy position, the macro-economic projections and the assumptions underpinning the fiscal framework; 15
- (c) the spending priorities of national government for the next three years;
- (d) the proposed division of revenue between the spheres of government and between arms of government within a sphere for the next three years;
- (e) the proposed substantial adjustments to conditional grant allocations to provinces and local governments, if any; and 20
- (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.

(3) A House must refer matters referred to in subsections (2)(a) and (b) to its committee on finance.

(4) A House may require its committee on finance to consult with any other committee in considering matters referred to it. 25

(5) Each committee on finance must 30 days after the tabling of the Medium Term Budget Policy Statement report to the National Assembly or the National Council of Provinces, as the case may be, on the proposed fiscal framework for the next three financial years. 30

(6) The report may include recommendations to amend the fiscal framework should it remain materially unchanged when submitted with the national budget.

(7) A report referred to in (5) must be submitted to the Minister within 7 days after its adoption by a House.

(8) A House must refer matters concerning subsections (2)(c), (d) and (e) to its committee on appropriations. 35

(9) A House may require its committee on appropriations to consult with any other committee in considering matters referred to it.

(10) Each committee on appropriations must 30 days after the tabling of the Medium Term Budget Policy Statement submit a report to the National Assembly or the National Council of Provinces, as the case may be, on the proposed division of revenue and the conditional grant allocations to provinces and local governments. 40

(11) A report referred to in (10) may include a recommendation to amend the division of revenue should it remain materially unchanged in the Division of Revenue Bill.

(12) A report referred to in (10) must be submitted to the Minister within 7 days after its adoption by a House. 45

Introduction of the Division of Revenue Bill, the national budget 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 Appropriation Bill. 50

(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 financial year and subsequent two years; 55
- (b) the key macro-economic assumptions underlying the fiscal framework over the short, medium and long term;

- (c) key fiscal ratios for the 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 financial year and subsequent two years; 5
 - (e) cyclical factors taken into account in the formulation of the fiscal framework for the 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; 10
 - (g) an estimate and breakdown of contingent liabilities for the 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). 15
- (4) The Minister must submit a report to the Houses at the same time as tabling the Bills referred to in subsections (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). 20

Adopting the fiscal framework and revenue proposals

8. (1) The National Assembly and the National Council of Provinces must refer the fiscal framework and revenue proposals to their respective committee on finance.
- (2) The committees must conduct joint public hearings on the fiscal framework and revenue proposals. 25
- (3) The committees must within 16 days after the tabling of the national budget submit a report to the National Assembly and the National Council of Provinces, as the case requires, on the fiscal framework and revenue proposals.
- (4) The report must include a clear statement accepting or amending the fiscal framework and revenue proposals. 30
- (5) When amending the fiscal framework, a money Bill or taking any decision in terms of this Act, Parliament and its committees must:
- (a) ensure that there is an appropriate balance between revenue, expenditure and borrowing;
 - (b) ensure that debt levels and debt interest cost are reasonable; 35
 - (c) ensure that the cost of recurrent spending is not deferred to future generations;
 - (d) ensure that there is adequate provision for spending on infrastructure development, overall capital spending and maintenance;
 - (e) 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; 40
 - (f) take into account cyclical factors that may impact on the prevailing fiscal position; and
 - (g) take into account all public revenue and expenditure, including extra-budgetary funds, and contingent liabilities. 45
- (6) If the report includes amendments to the fiscal framework or revenue proposals:
- (a) amendments to the revenue proposals must comply with section 11(3) of this Act;
 - (b) the Minister must be given at least two days to respond to the report and any proposed amendments prior to the submission of the respective reports to the Houses; and 50
 - (c) the respective reports of the committees on finance must include the responses of the Minister.
- (7) The Houses must consider the reports referred to in (6) for adoption by resolution within 16 days after the tabling of the national budget. 55
- (8) If there is a material difference in the resolutions passed by the National Council of Provinces and the National Assembly, the National Assembly must reconsider its resolution, taking into account the differences with the resolution passed by the National Council of Provinces, and pass its resolution again with or without amendments.

(9) Any amendments to the Division of Revenue Bill, the revenue Bills or the Appropriation Bill must be in accordance with the estimates of revenue and expenditure, excluding statutory expenditure, debt service cost and the contingency allowance as contained in the resolution of the National Assembly which adopted the fiscal framework.

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Passing the Division of Revenue Bill

9. (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 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 35 days after the adoption of the fiscal framework by Parliament.

(4) Any amendment to the Division of Revenue Bill must be consistent with the adopted fiscal framework and section 214 of the Constitution.

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(5) The standing rules must provide for:

- (a) the participation of chairpersons of other committees;
- (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 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).

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

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- (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 departments, provinces, and local governments.

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(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 amendments proposed at least 3 days prior to the submission of the report to the relevant House.

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

Passing the Appropriation Bill

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10. (1) After the adoption of the fiscal framework:

- (a) the Appropriation Bill must be referred to the Committee on Appropriations of the National Assembly;
- (b) the Minister must table the proposals setting out the strategic priorities, measurable objectives and other performance information for each department, public entity or institution against its expected revenue and proposed expenditure by programme, sub-programme and economic items of expenditure; and
- (c) the relevant members of Cabinet must table updated strategic plans for each department, public entity or institution, which must be referred to the relevant committee for consideration and report.

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

(3) The committees on appropriations may not consider amendments to the Appropriation Bill prior to the passing of the Division of Revenue Bill.

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(4) Any amendment to the Appropriation Bill must be consistent with the adopted fiscal framework and Division of Revenue Bill passed by Parliament.

(5) Another committee may advise a Committee on 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) no more than 10 percent of the funds appropriated for a main division within a vote, excluding projected personnel costs, may be appropriated conditionally; 5
- (b) the committee must specify the conditions that need to be met before the Committee on Appropriations may recommend to the House that the funds be released; 10
- (c) the Minister or the affected member of Cabinet must be given 2 days to respond to the proposed conditional appropriation;
- (d) 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; 15 and
- (e) the House must consider the recommendation of the Committee on Appropriations to release the funds within 7 days after that committee reported to the House.

(6) Another committee may advise a Committee on Appropriations that an amount must be appropriated specifically and exclusively for a purpose mentioned under a main division within a vote. 20

(7) Parliament must pass, with or without amendments, or reject the Appropriation Bill within four months after the start of the financial year to which it relates.

(8) The standing rules must provide for: 25

- (a) the Committee on Appropriations to hold public hearings on the Appropriation Bill and proposed amendments;
- (b) the Committee on Appropriations to report to the House on the comments on and amendments to the Appropriation Bill;
- (c) other committees to consult with the Committee on 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; 30
- (d) other committees to consult with the Committee on Appropriations in respect of proposed conditional appropriations; 35
- (e) the Committee on Appropriations to mediate between committees proposing conflicting amendments to the Appropriation Bill; and
- (f) the Committee on 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. 40

(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 on Appropriations prior to reporting to the House. 45

(10) A report of the Committee on 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; 50
- (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 55
- (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. 60

(11) A report in terms of subsection (8) must include the responses of the Minister or member of Cabinet to any proposed amendments.

Passing the revenue Bills

- 11.** (1) Revenue Bills must be referred to the Committee on Finance of the National Assembly for consideration and report.
- (2) After the National Assembly passed a revenue Bill, it must be referred to the National Council of Provinces. 5
- (3) In amending revenue Bills and revenue proposals Parliament and its committees must:
- (a) ensure that the total amount of revenue raised is consistent with the approved fiscal framework and the Division of Revenue Bill;
 - (b) take into account the principles of equity, efficiency, certainty and ease of collection; 10
 - (c) consider the impact of the proposed change on the composition of tax revenue with reference to the balance between direct and indirect taxes;
 - (d) consider regional and international tax trends; and
 - (e) consider the impact on development, investment, employment and economic growth. 15
- (4) The standing rules must provide for:
- (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 sub-section (7). 20
- (5) The Minister must be given at least 14 days to respond to any proposed amendment.
- (6) The report submitted to the House must:
- (a) motivate amendments in terms of sections 8(5) and 11(3) of this Act; and
 - (b) include comments from the Minister on any proposed amendments. 25

National adjustments budget

- 12.** (1) The Minister must 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. 30
- (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 Bill with the revised fiscal framework if the adjustments budget effects changes to the Division of Revenue Act for the relevant year. 35
- (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 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. 40
- (7) The committees on finance must 9 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 days to respond to the report and proposed amendments prior to the submission of the respective reports to the Houses. 45
- (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. 50
- (12) The report may propose amendments to the Division of Revenue Amendment Bill.
- (13) If the report proposes amendments to the Division of Revenue Amendment Bill, the Minister must be given at least 4 days to respond to the report and proposed amendments prior to the submission of the report to the Houses. 55
- (14) The 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 Bill must be referred to the Committee on Appropriations of the National Assembly only after the Division of Revenue Amendment Bill is passed by Parliament. 60

- (16) The standing rules must provide for:
- (a) the Committee on Appropriations to report comments on and amendments to the Adjustments Appropriation Bill;
 - (b) other committees to consult with the Committee on 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 on Appropriations to mediate between committees proposing conflicting amendments to the Adjustment Appropriation Bill; and
 - (d) the Committee on 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 days to respond to any proposed amendments to the Adjustment Appropriation Bill by the Committee on Appropriations.
- (18) The report of the Committees on Appropriations must:
- (a) comply with section 10(10); and
 - (b) include comments of the Minister to any proposed amendments.
- (19) The Committee on Appropriations must report to the relevant House within 30 days after the tabling of the national adjustments budget.

Passing other 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 on 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 on 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 on 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 on Appropriations must include the comments of the Minister to any proposed amendments in terms of this section.

Amendments proposed by the Minister

- 14.** Notwithstanding any provision in this Act, a House or committee may consider an amendment to a money Bill proposed by the Minister in order to make technical corrections to the Bill.

Parliamentary Budget Office

- 15.** (1) There is hereby established a Parliamentary Budget Office 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.
- (2) The core function of the Parliamentary Budget Office is to support the implementation of this Act by undertaking research and analysis for the committees referred to in section 4, including:
- (a) annually providing reviews and analysis of the documentation tabled in Parliament by the Executive in terms of this Act;
 - (b) providing advice and analysis on proposed amendments to the fiscal framework, the Division of Revenue Bill and money Bills and on policy proposals with budgetary implications;

- (c) monitoring and synthesising matters and reports tabled and adopted in a House with budgetary implications, with particular emphasis on reports by other committees;
 - (d) keeping abreast of policy debates and developments in key expenditure and revenue areas; 5
 - (e) monitoring and reporting on potential unfunded mandates arising out of legislative, policy or budgetary proposals; and
 - (f) undertaking any other work deemed necessary by the Director to support the implementation of this Act.
- (3) The Parliamentary Budget Office may undertake research on request by the Houses, other committees or members of Parliament on matters related to the budget and other money Bills, subject to capacity. 10
- (4) There must be a cooperative relationship between the Parliamentary Budget Office and other research structures in Parliament.
- (5) The committees contemplated in section 4 must recommend to the respective Houses: 15
- (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. 20
- (6) Pending the establishment of the committees referred to in section 4, an ad hoc joint committee established by resolution of both Houses and composed in a manner consistent with democracy of an equal number of members from both Houses must fulfil the functions contemplated in subsection (5). 25
- (7) Any committee considering making a recommendation contemplated in subsection (5) must do so in an open and transparent manner.
- (8) The Director may be removed from office only on: 30
- (a) the ground of misconduct, incapacity or incompetence;
 - (b) a finding to that effect by a joint sitting of the committees on finance and appropriations of each House; and
 - (c) the adoption by both Houses of a resolution calling for that person's removal.
- (9) The Director shall be obliged to 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. 35
- (10) The Parliamentary Budget Office must annually receive a transfer of funds from Parliament's budget to carry out its duties and functions.
- (11) The Director must annually submit to Parliament a rolling three year budget in time for inclusion in Parliament's budget and a report on the use of funds and the activities of the Parliamentary Budget Office. 40
- (12) The Director must appoint deputy directors and personnel with the requisite experience and qualifications as may be necessary to carry out the duties and functions of the Parliamentary Budget Office as specified in subsections (2) and (3).
- (13) The Director, in consultation with the committees referred to in section 4 must determine: 45
- (a) the structure of the Parliamentary Budget Office; and
 - (b) the conditions of service of the deputy directors and personnel of the Parliamentary Budget Office, which must take cognisance of the conditions of service of officials in the Parliamentary Service. 50
- (14) The Director may delegate authority to perform any function imposed by this section to a person appointed in terms of subsection (12).
- (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 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). 55
- (16) In carrying out the duties and functions of the Parliamentary Budget Office, the Director may procure the services of experts or consultants or organisations by contract.

Short Title

16. This Act is called the Money Bills Amendment Procedure and Related Matters Act, 2008. 60

MEMORANDUM ON THE OBJECTS OF THE MONEY BILLS AMENDMENT PROCEDURE AND RELATED MATTERS BILL, 2008

1. INTRODUCTION

Section 73(2) of the Constitution of the Republic of South Africa, 1996, provides that only the Cabinet member responsible for national financial matters may introduce a money Bill in the National Assembly. A money Bill is defined in section 77(1) as a Bill that appropriates money; imposes, abolishes or reduces, or grants exemptions from national taxes, levies, duties or surcharges; or, authorises direct charges against the National Revenue Fund, except a Bill envisaged in section 214 (dealing with equitable shares and allocation of revenue amongst the three spheres of government) authorising direct charges. Section 77(3) of the Constitution requires an Act of Parliament to provide for a procedure to amend money Bills before Parliament.

2. OBJECTS OF THE BILL

The draft Money Bills Amendment Procedure and Related Matters Bill seeks to establish a procedure to amend money Bills before Parliament within the context of oversight findings and the adoption of a fiscal framework. Furthermore, it establishes a Parliamentary Budget Office to provide research support to Parliament and its committees pursuant to maintaining oversight of the budget process and the possible amendments to money Bills.

3. CONTENT OF THE BILL

- 3.1 Clause 1 sets out the definitions of terms used in the Bill.
- 3.2 Clause 2 sets out the parameters within which the Bill must be interpreted.
- 3.3 Clause 3 provides that the Bill applies to all proposed amendments to money Bills before Parliament.
- 3.4 Clause 4 requires that each House establishes committees on finance and appropriations to engage with the national macro-economic and fiscal policy and to consider all amendments to money Bills.
- 3.5 Clause 5 requires the National Assembly, through its committees, to annually assess the performance of government departments by adopting budgetary review and recommendation reports.
- 3.6 Clause 6 requires the Minister of Finance to submit to Parliament the medium term budget policy statement, which must include a multi-year fiscal policy framework; an explanation of the macro-economic and fiscal policy; multi-year spending priorities of national government; multi-year proposed division of revenue; proposed adjustments to conditional grant allocations to provinces and local governments, if any; and, a review of actual spending by each national department and each provincial government. Different parts of the medium term budget policy statement must be referred to the different committees established in terms of section 4.
- 3.7 Clause 7 provides for the introduction of the annual budget, the Division of Revenue Bill and the Appropriation Bill. Information additional to the requirements of the Public Finance Management Act, 1999 (Act No. 1 of 1999) must be submitted with the annual budget.
- 3.8 Clause 8 provides, amongst others, for the adoption of the fiscal framework in accordance with stipulated principles.
- 3.9 Clause 9 provides for the procedure to consider and pass, with or without amendments, the Division of Revenue Bill.

- 3.10 Clause 10 provides for the procedure to consider and pass, with or without amendments, the Appropriation Bill.
- 3.11 Clause 11 provides for the procedure to consider and pass, with or without amendments, the revenue Bills.
- 3.12 Clause 12 provides for tabling of an adjustments budget and, if necessary, a revised fiscal framework. It further provides for the procedure to consider and pass, with or without amendments, the division of revenue amendment Bill and the adjustments Appropriation Bill.
- 3.13 Clause 13 provides for the procedure to consider and pass, with or without amendments, other money Bills.
- 3.14 Clause 14 provides for the Minister of Finance to propose amendments to money Bills in order to make technical corrections to such Bills.
- 3.15 Clause 15 provides, amongst others, for the establishment, functions, composition and budget of a Parliamentary Budget Office.
- 3.16 Clause 16 provides for the short title of the Bill.

4. DEPARTMENTS/BODIES/PERSONS CONSULTED

The Portfolio Committee on Finance invited comments on the Bill when the Bill was published in the *Government Gazette* No. 31238 (10 July 2008). Public hearings were held from 5-8 August 2008. The following entities submitted written comments, whilst the majority of these also participated in the public hearings:

- Applied Fiscal Research Centre (Afrec)
- Black Sash
- Business Parliamentary Office (PBO)
- Ernst & Young
- Federation of Unions of South Africa (FEDUSA)
- Financial and Fiscal Commission (FFC)
- IDASA
- National Treasury
- People's Budget Campaign (PBC)
- Secretary to Parliament
- South African Institute of Chartered Accountants (SAICA)

5. IMPLICATIONS FOR PROVINCES

None.

6. FINANCIAL IMPLICATIONS FOR THE STATE

The establishment of the Parliamentary Budget Office will have substantial financial implications for the budget of Parliament. Although the salary and allowance of the Director is linked to the senior management level in the public service, and as such can be estimated accordingly, costs of other personnel and incidental costs such as information systems and consultancy fees depend on the range of functions required from the Office from year to year.

7. PARLIAMENTARY PROCEDURE

- 7.1 The Parliamentary Law Advisor is of the opinion that the Bill must be dealt with in accordance with the procedure established in section 75 of the Constitution of the Republic of South Africa, 1996.

- 7.2 The Parliamentary Law Advisor is further 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.