

REPUBLIC OF SOUTH AFRICA

APPROPRIATION BILL

*(As introduced in the National Assembly (proposed section 77))
(The English text is the official text of the Bill)*

(MINISTER OF FINANCE)

[B 7—2022]

ISBN 978-1-4850-0774-6

No. of copies printed250

BILL

To appropriate money from the National Revenue Fund for the requirements of the State for the 2022/23 financial year; to prescribe conditions for the spending of funds withdrawn for the 2023/24 financial year before the commencement of the Appropriation Act for the 2023/24 financial year; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS section 213(2) of the Constitution of the Republic of South Africa, 1996, provides that money may be withdrawn from the National Revenue Fund only in terms of an appropriation by an Act of Parliament or as a direct charge against that Fund, when it is provided for in the Constitution of the Republic of South Africa, 1996, or an Act of Parliament;

WHEREAS section 26 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), provides that Parliament must appropriate money for each financial year for the requirements of the State;

AND WHEREAS section 7(1) of the Money Bills and Related Matters Act, 2009 (Act No. 9 of 2009), provides that the Minister of Finance must table the annual budget, as set out in section 27 of the Public Finance Management Act, 1999, in the National Assembly at the same time as the Appropriation Bill,

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

Interpretation

1. In this Act, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in section 1 of the Public Finance Management Act, must bear the meaning so assigned, and— 5

“**allocation-in-kind**” means an allocation that is listed as an allocation-in-kind in the Division of Revenue Act for the 2022/23 financial year for spending by a national department on behalf of a province or a municipality;

“**conditional allocation**” means a conditional allocation to a province or a municipality from the national government’s share of revenue raised nationally, which is provided for and whose purpose is specified in the Division of Revenue Act for the 2022/23 financial year envisaged in section 214(1)(c) of the Constitution of the Republic of South Africa, 1996;

“**contingencies**” mean unallocated amounts and provisional allocations contained in the fiscal framework, as defined in section 1 of the Money Bills and Related Matters Act, 2009 (Act No. 9 of 2009), or a revised fiscal framework, for the 2022/23 financial year; 15

“**current payments**” means any payment made by a department classified as, or deemed to be, a current payment in terms of the instructions issued in the *Guidelines for Implementing the Economic Reporting Format* (September 2009), in terms of section 76 of the Public Finance Management Act;

“**Minister**” means the Cabinet member responsible for finance; 5

“**payments for capital assets**” means any payment made by a department classified as, or deemed to be, a payment for capital assets in terms of the instructions issued in the *Guidelines for Implementing the Economic Reporting Format* (September 2009) and the *Asset Management Framework* (April 2004, Version 3.3), in terms of section 76 of the Public Finance Management Act; 10

“**payments for financial assets**” means any payment made by a department classified as, or deemed to be, a payment for financial assets in terms of the instructions issued in the *Guidelines for Implementing the Economic Reporting Format* (September 2009), in terms of section 76 of the Public Finance Management Act; 15

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

“**purpose**” includes the classification of an appropriation as current payments, payments for capital assets, payments for financial assets or transfers and subsidies;

“**relevant Parliamentary Committees**” means the Standing Committee on Appropriations of the National Assembly and the Select Committee on Appropriations of the National Council of Provinces; and 20

“**transfers and subsidies**” means any payment made by a department classified as, or deemed to be, a transfer or subsidy payment in terms of the instructions issued in the *Guidelines for Implementing the Economic Reporting Format* (September 2009), in terms of section 76 of the Public Finance Management Act. 25

Appropriation of money for requirements of State

2. (1) Appropriations by Parliament of money from the National Revenue Fund for the requirements of the State in the 2022/23 financial year to votes and the main divisions within a vote, and for the purposes that are specified, are set out in the Schedule. 30

(2) The spending of appropriations envisaged in subsection (1) is subject to this Act, the Public Finance Management Act and the Division of Revenue Act for the 2022/23 financial year.

(3) The spending of funds withdrawn from the National Revenue Fund before this Act takes effect, as envisaged in section 29(1) of the Public Finance Management Act, is subject to section 7 of the Appropriation Act, 2021 (Act No. 10 of 2021). 35

Amounts listed as specifically and exclusively appropriated

3. An amount that is marked as specifically and exclusively appropriated in the Schedule may be used only for the purpose indicated, unless the amount or purpose is amended by, or in terms of, an Act of Parliament. 40

Conditions for appropriations

4. (1) The Minister may, in writing—

(a) impose conditions on an amount in the Schedule, other than a conditional allocation, in order to promote transparency and accountability and the effective management of the appropriation; and 45

(b) stop the use of an amount in respect of which conditions imposed in terms of paragraph (a) are not met.

(2) The stoppage of an amount in terms of subsection (1)(b) must be disclosed in the National Treasury’s next quarterly report to the relevant Parliamentary Committees. 50

Use of unspent funds

5. (1) Despite section 3 of this Act and section 43(4) of the Public Finance Management Act, the Minister may approve that unspent funds in an amount in the Schedule allocated for—
- (a) compensation of employees, be used within the same vote for transfers and subsidies for the payment of severance or exit packages; 5
 - (b) goods and services, be used within the same vote for compensation of employees; 10
 - (c) transfers and subsidies to other institutions, be used elsewhere within the same main division; 10
 - (d) payments for capital assets, be used elsewhere in any main division within the same vote; or
 - (e) payments for financial assets, be used elsewhere within the same main division. 15
- (2) The Minister may not approve the use of unspent funds in terms of subsection (1)(c), (d) or (e) for compensation of employees. 15
- (3) The sum of the unspent funds in a main division of a vote approved for use in another main division of that vote in terms of—
- (a) subsection (1); and
 - (b) section 43(1) of the Public Finance Management Act, 20
- may not exceed eight per cent of the amount appropriated under that main division.
- (4) The approval of the use of unspent funds in terms of subsection (1) must be disclosed in the National Treasury's next quarterly report to the relevant Parliamentary Committees.

Authorisation of expenditure 25

6. (1) Despite any provision in any other legislation to the contrary, the Minister may approve expenditure, if it cannot reasonably be delayed and such expenditure—
- (a) is unforeseeable and unavoidable;
 - (b) is of an exceptional nature which, if not approved, is likely to cause serious prejudice to the public interest; 30
 - (c) was announced during the tabling of the 2022/23 annual budget or an adjustments budget; or
 - (d) was approved in the appropriation for the 2021/22 financial year and shall be proposed to be rolled over to the 2022/23 financial year in order to finalise expenditure that could not take place in the 2021/22 financial year as originally planned. 35
- (2) The total amount of expenditure approved in terms of subsection (1) may not exceed the total amount for contingencies.
- (3) Any expenditure approved in terms of subsection (1)(c) may not exceed the amount announced by the Minister for a specific item during the tabling of the annual budget or an adjustments budget. 40
- (4) Expenditure approved in terms of subsection (1)—
- (a) is a direct charge against the National Revenue Fund and must be attributed to a vote;
 - (b) is subject to conditions that the Minister may impose; 45
 - (c) must be disclosed in the National Treasury's next quarterly report to the relevant Parliamentary Committees; and
 - (d) must, despite section 30(2) of the Public Finance Management Act, be included in an appropriation Bill within 120 days of the Minister approving the expenditure in terms of subsection (1). 50

Spending before commencement of Appropriation Act for 2023/24 financial year

7. The spending of funds withdrawn in terms of section 29 of the Public Finance Management Act for the 2023/24 financial year before the commencement of the Appropriation Act for the 2023/24 financial year is, with the necessary changes, subject to— 55
- (a) any applicable conditions imposed in terms of section 4 and the applicable provisions of all Adjustments Appropriation Acts for the 2022/23 financial year, as if the funds were allocated for the 2022/23 financial year;

- (b) the applicable provisions of the Division of Revenue Act and all Division of Revenue Amendment Acts for the 2022/23 financial year, as if the funds were allocated for the 2022/23 financial year; and
- (c) the applicable provisions of the Division of Revenue Act for the 2023/24 financial year, when the said Act takes effect. 5

Delegations and authorisations

- 8.** (1) The Minister may—
- (a) delegate to an employee of the National Treasury any power conferred on the Minister in terms of this Act, except section 9; and
 - (b) authorise an employee of the National Treasury to perform any duty imposed on the Minister in terms of this Act. 10
- (2) A delegation or authorisation in terms of subsection (1)—
- (a) must be in writing;
 - (b) is subject to any limitations or conditions that the Minister may impose;
 - (c) may authorise the employee contemplated in subsection (1) to sub-delegate, in writing, the delegated power or authorised duty to another suitable employee of the National Treasury; 15
 - (d) does not divest the Minister of the responsibility concerning the exercise of the delegated power or the performance of the authorised duty; and
 - (e) may be withdrawn by the Minister in writing. 20
- (3) The Minister may vary or revoke any decision taken by an employee as a result of a delegation or authorisation in terms of subsection (1), subject to any rights that may have vested as a result of the decision.

Regulations

- 9.** The Minister may, by notice in the *Gazette*, make regulations regarding any ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation or administration of this Act. 25

Short title

- 10.** This Act is called the Appropriation Act, 2022.