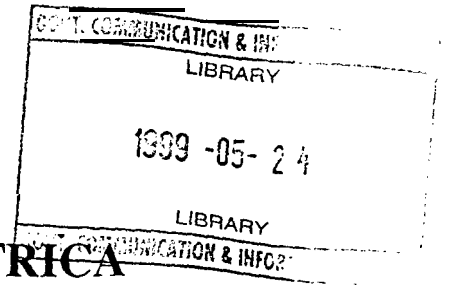


Division of Revenue Act, 1999 (Act 30 of 1999) has been repealed by
Division of Revenue Act, 2001 (Act 1 of 2001) as of 1 April 2001



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

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OFFICE OF THE PRESIDENT

No. 413. 31 March 1999

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

No. 30 of 1999: Division of Revenue Act, 1999.

KANTOOR VAN DIE PRESIDENT

No. 413. 31 Maart 1999

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 30 van 1999: Wet op die Verdeling van Inkomste, 1999.

ACT

To provide for the equitable division of revenue raised nationally among the national, provincial and local spheres of government for the 1999/2000 financial year; and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 214 (1) of the Constitution requires an Act of Parliament to provide for—

- (a) the equitable division of revenue raised nationally among the national, provincial and local spheres of government;
- (b) the determination of each province's equitable share of the provincial share of that revenue; and
- (c) any other allocations to provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations may be made.

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

Definitions

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

- (i) “Bargaining Council” means the Public Service Coordinating Bargaining Council referred to in section 35 of the Labour Relations Act, 1995 (Act No. 66 of 1995); (i) 5
- (ii) “Budget Council” means the council established by section 2 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997); (iii)
- (iii) “Budget Forum” means the Local Government Budget Forum established by section 5 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997); (ii) 10
- (iv) “department” means a national department referred to in section 7(2) of the Public Service Act, 1994 (Proclamation No. 103 of 1994); (vii)
- (v) “Director-General” means the Director-General of the Department of Finance; (viii) 15
- (vi) “head official of the provincial treasury” means the officer in charge of the provincial department responsible for financial matters in a province; (xi)
- (vii) “financial year” means the financial year of the national and provincial government commencing on 1 April 1999 and ending on 31 March 2000; (ix) 20
- (viii) “Minister” means the Minister of Finance; (xii) 20
- (ix) “municipality” means a local government body as defined in section 1 of the Local Government Transition Act, 1993 (Act No. 209 of 1993); (xiii)
- (x) “national accounting officer” means the head of a department or a statutory fund in the national government charged with the responsibility of accounting for all moneys received and for all payments made by the department or the fund; (xiv) 25

- (xi) “next financial year” means the financial year of the national and provincial spheres of government commencing on 1 April 2000 and ending 31 March 2001; (xvii)
- (xii) “organised local government” means an organisation recognised in terms of section 2(1) of the Organised Local Government Act, 1997 (Act No. 52 of 1997), in respect of which the Minister referred to in that Act has not exercised the power conferred on him or her by section 2(2) of that Act; (x) 5
- (xiii) “payment schedule” means a schedule setting out—
 - (a) the amount of each instalment of an equitable share or an allocation to be transferred to a province, municipality or organised local government for the financial year; 10
 - (b) the date on which each such instalment must be paid; and
 - (c) to whom each instalment must be paid; (iv)
- (xiv) “relevant members of the provincial executive councils” means, in respect of the South African Housing Fund, the members of the executive councils of the provinces responsible for housing, in respect of the Consolidated Municipal Infrastructure Programme, the members of the executive councils of the provinces responsible for local government and in respect of the rehabilitation of hospitals, the members of the executive councils of the provinces responsible for health; (v) 15 20
- (xv) “relevant Minister” means, in respect of the South African Housing Fund, the Minister responsible for housing, in respect of the Consolidated Municipal Infrastructure Programme, the Minister responsible for local government and in respect of the rehabilitation of hospitals, the Minister responsible for health; (vi)
- (xvi) “R293 town” means a township within the meaning of Proclamation No. R293 of 1962 or any other similar town approved by the Minister responsible for local government; (xv) 25
- (xvii) “SALGA” means the organisation recognised in terms of section 2(1)(a) of the Organised Local Government Act, 1997 (Act No. 52 of 1997). (xvi) 30

PART I

EQUITABLE SHARE ALLOCATION

Equitable division of revenue raised nationally amongst spheres of government

2. Anticipated revenue raised nationally in respect of the financial year is hereby divided among the national, provincial and local spheres of government for their equitable share as set out in Schedule 1. 35

Equitable division of provincial share amongst provinces

3. (1) Each province’s equitable share of the provincial share of anticipated revenue raised nationally in respect of the financial year is set out in Schedule 2.

(2) Each province’s equitable share of the provincial share of anticipated revenue raised nationally in respect of the financial year must be transferred to the province in weekly instalments in accordance with a payment schedule determined by the Director-General after consultation with the head officials of the provincial treasuries. 40

(3) Despite subsection (2), the Director-General may, on conditions determined by the Minister, advance funds to a province in respect of its equitable share set out in Schedule 2 which have not yet fallen due for transfer in terms of the payment schedule referred to in subsection (2) in respect of that province. 45

(4) Such advances must be set off against transfers to the province which would otherwise become due in terms of that payment schedule.

Equitable share for local government

4. (1) The local sphere of government’s equitable share of anticipated revenue raised nationally set out in Schedule 1 must comprise— 50

- (a) R447 000 000 in respect of R293 towns;

- (b) R1 226 000 000 in respect of organised local government and municipalities other than R293 towns.
- (2) The national accounting officer responsible for local government must determine—
 - (a) the share of each R293 town in respect of the allocation mentioned in subsection (1)(a); and
 - (b) the share of organised local government and municipalities other than R293 towns in respect of the allocation mentioned in subsection (1)(b).
- (3) The shares mentioned in subsection (2) must be determined in accordance with criteria approved by the Director-General taking account of any recommendations by SALGA.
- (4) The allocation to each body referred to in subsection (2) must be transferred to the body concerned in monthly or quarterly instalments in accordance with a payment schedule—
 - (a) determined by the national accounting officer responsible for local government; and
 - (b) which complies with any directions given by the Director-General.
- (5) The national accounting officer responsible for local government may amend a payment schedule contemplated in this section.

Shortfalls and excess revenue 20

- 5. (1) If actual revenue raised nationally in respect of the financial year falls short of the anticipated revenue set out in Schedule 1, the national sphere of government bears the shortfall.
- (2) If actual revenue raised nationally in respect of the financial year is in excess of the anticipated revenue set out in Schedule 1, the excess accrues to the national sphere of government. 25

PART II

OTHER ALLOCATIONS

Other allocations to provinces and municipalities

- 6. (1) Other allocations to provinces and municipalities from the national government's share of anticipated revenue raised nationally in respect of the financial year, and the conditions on which those allocations are made, are set out in Schedule 3. 30
- (2) Subject to this Act, each allocation referred to in Schedule 3 and all amounts gazetted under section 14(1) must be transferred to the province or municipality concerned in accordance with a payment schedule— 35
 - (a) prepared by the national accounting officer responsible for the allocation; and
 - (b) approved by the Director-General after consultation with the relevant head officials of the provincial treasuries.
- (3) The Director-General may, after consultation with the relevant head official of the provincial treasury, exempt a grant from this provision. 40
- (4) Each payment schedule referred to in subsection (2) must provide for transfers to commence in advance of the date on which the province or municipality concerned is to begin expending funds in respect of the allocation in question, unless the province or municipality agrees to a later payment date.
- (5) The national accounting officer responsible for an allocation to a province referred to in Schedule 3, except for agency payments, must pay the allocation into the province's provincial revenue fund but the Director-General may direct that such agency funds also be deposited into a provincial revenue fund. 45
- (6) If a province or municipality does not comply with all the conditions for an allocation in terms of Schedule 3, the national accounting officer responsible for that allocation may nevertheless transfer that allocation to the province or municipality if the national accounting officer— 50
 - (a) is satisfied that the province or municipality is taking adequate steps to achieve compliance with the conditions in question; or

- (b) deems it necessary to do so to prevent—
 - (i) a disruption of basic services; or
 - (ii) a failure by the province or municipality concerned to comply with its statutory or contractual commitments.

(7) A national accounting officer may withhold from a province or municipality an allocation or portion of an allocation referred to in Schedule 3 (excluding the Supplementary Allocation to Provinces) or any allocation gazetted in terms of section 14(1) or a portion of such allocation if he or she has submitted to the Director-General and to the province or municipality concerned a written report at least 21 days before such payment is due, setting out facts evidencing failure on the part of that province or municipality to comply with the conditions on which that allocation is made and recommending the withholding of the allocation or a stated portion of it.

(8) Despite subsection (7), the Minister may direct, in writing, that such allocation or a portion of such allocation may not be withheld.

(9) A province or municipality may retain any funds (excluding agency allocations) not expended in respect of an allocation in terms of Schedule 3.

(10) A national accounting officer of a department referred to in Schedule 3 must submit a quarterly report in the prescribed form to the Director-General within ten days after the end of each quarter of the financial year in respect of each transfer effected or to be effected in terms of this Act.

R293 towns allocations

7. (1) The national accounting officer responsible for local government must, on a monthly basis—

- (a) monitor the transfer of R293 town personnel from the provinces to the municipalities; and
- (b) monitor the reduction of such personnel in the employ of the provinces due to any other cause.

(2) Despite section 6(2), and after having monitored the transfers and reductions contemplated in subsection (1), the national accounting officer responsible for local government may, after consultation with the Director-General—

- (a) reduce the amount of an allocation to a province in respect of its R293 town allocation in terms of Schedule 3 to take account of any such transfers or reductions;
- (b) transfer any allocation intended for a province in respect of its R293 town allocation to a municipality in that province to which R293 town personnel have been transferred.

(3) Any funds not transferred in respect of a province's R293 town allocation in terms of Schedule 3 may be allocated to R293 towns and the province for local government support purposes in that province in such proportions and on such conditions as the national accounting officer responsible for local government may determine.

Health conditional allocations

8. The allocations to provinces set out in Schedule 3 in respect of the items concerning health professional training and research, and central hospital services, respectively, must be transferred to the provinces in accordance with a payment schedule determined by the Director-General after consultation with—

- (a) the national accounting officer for health; and
- (b) the head officials of the provincial treasuries.

Supplementary allocation to provinces

9. (1) Subject to subsection (2), the allocations to provinces set out in Schedule 3 in respect of the item "Supplementary Allocation to Provinces" must be transferred to the provinces in accordance with a payment schedule determined by the Director-General after consultation with the head officials of the provincial treasuries.