

***THE PROVINCE OF
GAUTENG***

***DIE PROVINSIE VAN
GAUTENG***

Provincial Gazette Provinsiale Koerant

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ACT

To provide for the appropriation of adjusted amounts of money from the Provincial Revenue Fund for the requirements of the Province in respect of the financial year ending 31 March 2019; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS section 226(2)(a) of the Constitution of the Republic of South Africa, 1996, provides that money may be withdrawn from the Provincial Revenue Fund only in terms of an appropriation by a provincial Act, or as a direct charge against the Fund, when it is provided for in the Constitution or a provincial Act;

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

AND WHEREAS section 31(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), provides that the Member of an Executive Council responsible for finance in the Province may table an adjustments budget in the Provincial Legislature, subject to subsection (3).

B E I T H E R E F O R E ENACTED by the Provincial Legislature of the Gauteng Province, as follows: -

Definitions

1. In this Act, any expression, phrase or word to which a meaning has been assigned in the Public Finance Management Act, 1999 (Act No. 1 of 1999), has the meaning assigned to it in that Act and, unless the context indicates otherwise: - 5

“**conditional grants**” means allocations to provinces, local government or municipalities from the national government’s share of revenue raised nationally, provided for under section 214(1)(c) of the Constitution of the Republic of South Africa, 1996; 10

“**current payments**” means any payments made by a provincial department in respect of the operational requirements of that department, and includes, amongst others, payments for the compensation of employees, goods and services, interest, rental of immovable property and financial transactions relating to assets and liabilities, but exclude transfers and subsidies, payments for capital assets and payments made under section 73 of the Public Finance Management Act, 1999; 15

“**payments for capital assets**” means any payments made by a provincial department

(a) for assets that can be used continuously or repeatedly in production for more than one year, and from which future economic benefits or service potential is expected to flow directly to the provincial department making the payment; 20
and

(b) that must be classified as or deemed to be payments for capital assets in accordance with the *“Reference Guide to the Economic Reporting Format”* (September 2009) and the *“Asset Management Framework”* (April 2004, Version 3.3) issued by the National Treasury under section 76 of the Public Finance Management Act, 1991;

5

“Province” means the Province of Gauteng referred to in section 103(c) of the Constitution of the Republic of South Africa, 1996;

“Provincial Legislature” means the Provincial Legislature of the Province of Gauteng;

“this Act” includes the Schedule; and

10

“transfers and subsidies” means any payments made by a provincial department to another organ of state or any other person in respect of which the provincial department does not receive anything of similar value directly in return, and includes the payment of conditional grants.

Appropriation of money for the requirements of the Province

15

2. (1) Adjusted appropriations by the Provincial Legislature of money from the Provincial Revenue Fund for the requirements of the Province in the 2018/19 financial year, to votes and main divisions within a vote, and for the specific listed purposes, is set out in the Schedule.

(2) Subject to section 3, spending of appropriations referred to in subsection (1) is subject to the Public Finance Management Act, 1999, and, to the extent that the Provincial Legislature is concerned, the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No. 10 of 2009).

20

Amounts listed as specifically and exclusively appropriated

3. Despite anything in any other law, amounts within a vote or main divisions within a vote that are listed as specifically and exclusively appropriated may only be utilised for the purpose indicated and may not be used for any other purpose, unless an Act of the Provincial Legislature amends or changes the purpose for which it was allocated.

25

Short title

4. This Act is called the Gauteng Provincial Adjustments Appropriation Act, 2019.

30

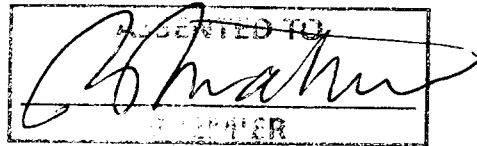
SCHEDULE									
(As a charge to the Provincial Revenue Fund)									
Details of appropriated amount									
Vote	Adjusted Total per Vote and Adjusted Main Division	Current Payments			Transfers and Subsidies	Payments for Capital Assets	Payments for Financial Assets	Adjusted Total per Vote and Adjusted Main Division	Specified transfer payments and amounts specifically and exclusively appropriated
		Compensation of Employees	Goods and Services	Other					
R thousand									
<i>Transfers to Provinces and Municipalities</i> <i>Transfers to Public corporations and private enterprise</i>	200								
11. Agriculture and Rural Development	997 764						997 764		
<i>Vision: An economically transformed agricultural sector including agro-processing and sustainable environmental management for healthy, food secure developed rural and urban communities in Gauteng.</i>									
1. Administration	232 387						232 387		
<i>of which</i>									
<i>Transfers to Departmental Agencies and Accounts</i>	961								
2. Agriculture and Rural Development	535 591						535 591		
<i>of which</i>									
<i>National conditional grants</i>									
<i>Land Care</i>	5 399								
<i>Ilima/Letsema Projects</i>	30 278								
<i>Comprehensive Agricultural Support Programme</i>	92 347								
<i>Expanded Public Works Programme Integrated Grant</i>	2 621								
<i>Transfers to Provinces and Municipalities</i>	4 000								
<i>Transfers to Public corporations and private enterprise</i>									
<i>Transfers to Higher Education Institutions</i>	5 291								
3. Environmental Affairs	229 786						229 786		
12. Sport, Arts, Culture and Recreation	1 008 196						1 008 196		
<i>Vision: An active, creative and modernised Gauteng City Region contributing to sustainable economic growth and social cohesion.</i>									
1. Administration	155 646						155 646		
2. Cultural Affairs	205 458						205 458		
<i>of which</i>									
<i>National conditional grants</i>									
<i>Expanded Public Works Programme Integrated Grant</i>	2 500								
<i>Transfers to Departmental Agencies and Accounts</i>	34 434								
<i>Transfers to Non Profit Institutions</i>	7 700								
3. Library and Archives Services	324 991						324 991		
<i>of which</i>									
<i>National conditional grants</i>									
<i>Community Library Services</i>	214 244								
<i>Transfers to Provinces and Municipalities</i>	137 278								
<i>Transfers to Non Profit Institutions</i>	1 598								
4. Sport and Recreation	322 101						322 101		
<i>of which</i>									
<i>National conditional grants</i>									
<i>Mass Sport and Recreation Participation Programme</i>	85 482								
<i>Social Sector Expanded Public Works Programme</i>									
<i>Incentive Grant for Provinces</i>	1 463								
<i>Transfers to Non Profit Institutions</i>	67 347								
13. E-Government	1 390 793						1 390 793		
<i>Vision: A connected Gauteng City-Region leverages technology to provide quality services to citizens.</i>									
1. Administration	239 139						239 139		
2. Information Communication Technology (ICT) Shared Services	1 047 328						1 047 328		
<i>of which</i>									
<i>Transfers to Higher Education Institutions</i>	22 893								

SCHEDULE									
(As a charge to the Provincial Revenue Fund)									
Details of appropriated amount									
Vote R thousand	Adjusted Total per Vote and Adjusted Main Division	Current Payments			Transfers and Subsidies	Payments for Capital Assets	Payment s for Financial Assets	Adjusted Total per Vote and Adjusted Main Division	Specified transfer payments and amounts specifically and exclusively appropriated
		Compensation of Employees	Goods and Services	Other					
3. Human Resources Services	113 326							113 326	
14. Gauteng Provincial Treasury	705 663							705 663	
Vision: To provide strategic leadership in financial and fiscal matters to ensure sustainable and inclusive social and economic development of the people of Gauteng so that all may enjoy value-for-money services of the highest quality.									
1. Administration	145 635							145 635	
2. Sustainable Fiscal Resource Management	148 464							148 464	
<i>of which</i>									
<i>Departmental agencies and accounts</i>									
<i>Gauteng Infrastructure Financing Agency</i>	58 544								
3. Financial Governance	163 964							163 964	
4. Supply Chain Management	110 834							110 834	
<i>of which</i>									
<i>Transfers to Non Profit Institutions</i>	10 000								
5. Municipal Financial Governance	45 712							45 712	
6. Gauteng Audit Services	91 054							91 054	
15. Infrastructure Development	3 036 964							3 036 964	
Vision: To be a leading sustainable infrastructure provider and facilitator that positions Gauteng as a globally competitive city region with inclusive economic growth and decent work for all.									
1. Administration	326 559							326 559	
2. Public Works Infrastructure	2 392 642							2 392 642	
<i>of which</i>									
<i>Transfers to Municipalities</i>									
<i>Devolution of rates and taxes</i>	901 394								
<i>Transfers to Departmental Agencies and Accounts</i>	4								
3. Expanded Public Works Programme	317 763							317 763	
<i>of which</i>									
<i>Expanded Public Works Programme Integrated Grant</i>	17 760								
TOTAL FOR THE PROVINCE	123 278 851		(96 950)		(330 875)	(202 108)		122 648 918	

NOTICE 800 OF 2019

GAUTENG PROVINCIAL LEGISLATURE

**GAUTENG FINANCE
MANAGEMENT SUPPLEMENTARY
AMENDMENT ACT**



CERTIFIED CORRECT AS PASSED BY
THE GAUTENG PROVINCIAL LEGISLATURE

SIGNED *[Signature]*.....
SPEAKER
DATE 29/04/2019.....

ENGLISH TEXT SIGNED BY THE PREMIER
ASSENTED TO ON: 20/04/2019

No 6, 2019

AND WHEREAS this Act is intended to complement the existing legislative framework to improve public confidence in the process by which provincial departments and provincial public entities contract for goods or services and public accountability in relation thereto.”

Amendment of section 1 of Act 1 of 2000

5

3. Section 1 of the principal Act is hereby amended—

(a) by the substitution of the words preceding the definition of the following words:

“In this Act, unless the context otherwise indicates, any meaning ascribed to a word or expression in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999) must bear the meaning so ascribed, and—”;

(b) by the insertion after the words preceding the definition of the following definitions, respectively:

“**‘probity audit’** means the independent review of the process through which provincial departments and provincial public entities contract for goods and services to ensure its compliance with legislation and relevant prescripts;

‘Province’ means the Province of Gauteng established by or in section 103(1)(c) of the Constitution of the Republic of South Africa, 1996, and

‘provincial’ has the same corresponding meaning”;

(c) by the substitution for the full-stop (.) at the end of the definition of the expression “; and”: and

(d) by the addition of the following definitions, respectively:

“**‘this Act’** includes any regulations and instructions issued in terms of sections 3N and 3O respectively; and

‘Tribunal’ means the Gauteng Bid Appeals Tribunal established in terms of section 3E.”;

Repeal of section 3 of Act 1 of 2000

4. Section 3 of the principal Act is hereby repealed.

30

Insertion of sections 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, 3I, 3J, 3K, 3L, 3M, 3N and 3O into Act 1 of 2000

5. Sections 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, 3I, 3J, 3K, 3L, 3M, 3N and 3O are hereby respectively inserted after section 3 of the principal Act.

“Purpose and objects of this Act

35

3A. (1) The purpose of this Act is to put measures in place to restore public confidence in procurement by increasing transparency, public accountability and integrity when provincial departments or provincial public entities contract for goods or services exceeding the amount determined by the Provincial Treasury, by providing for probity audit on bid specifications in relation to compliance with regulatory prescripts and the auditing of certain processes.

(2) The objects of this Act are to—

(a) ensure that contracting for goods or services exceeding the amount determined by the Provincial Treasury, is effected in a manner that is fair, equitable, transparent, competitive and cost-effective;

(b) ensure that corruption and unethical practices are eliminated when provincial departments or provincial public entities contract for goods or services exceeding the amount determined by the Provincial Treasury;

(c) ensure that irregular expenditure is prevented through improved control; and

(d) eliminate speculation about the motives for the eventual contracting decision by providing for adjudication in public.

(3) Every person concerned with the implementation of this Act must exercise their powers and perform their functions as to give full effect to the purpose and objects set out in subsections (1) and (2).

Probity advisory on bid specifications

3B. The accounting officer or accounting authority of a provincial department or provincial public entity, as the case may be, when contracting for goods or services exceeding the amount determined by the Provincial Treasury, must ensure that prior to publishing an invitation to bid

(a) the bid specification in relation to that invitation to bid is assessed by an auditor designated by the Provincial Treasury for compliance with regulatory prescripts; and

(b) a report is issued by the auditor referred to in paragraph (a) to the accounting officer or accounting authority concerned to the effect that all regulatory prescripts have been adhered to before the invitation to bid is published.

Probity auditing

3C. (1) The accounting officer or accounting authority of a provincial department or provincial public entity, as the case may be, when contracting for goods or services exceeding the amount determined by the Provincial Treasury, must ensure that --

(a) meetings of the bid specification committee and the bid evaluation committee are attended by an auditor designated by the Provincial Treasury;

(b) the auditor referred to in paragraph (a) probes the bid specification and the bid evaluation process to ensure the compliance of the process with legislation and relevant prescripts;

(c) the auditor contemplated in paragraph (a) issues a report to the accounting officer or accounting authority concerned providing assurance of compliance with the process referred to in paragraph (b) prior to the bid adjudication committee considering the recommendations of the bid evaluation committee; and

(d) the report contemplated in paragraph (c) must at least contain an assurance that the particular bid complies with the following prescripts:

(i) that the process is fair, equitable, transparent, competitive and cost-effective;

(ii) that the process is free from corruption or unethical practices; and

(iii) that the process would not create irregular expenditure.

(2) Compliance by an accounting officer or accounting authority with subsection (1) does not divest the accounting officer or accounting authority concerned of any responsibility in terms of the Act to ensure that the process concerned is compliant with legislation and relevant prescripts.

(3) Where an accounting officer or accounting authority rejects a report by an auditor as contemplated in subsection (2), the relevant accounting officer or accounting authority must report the rejection, together with specific reasons for it, to the Provincial Treasury before a decision to award the bid is made by that accounting officer or accounting authority.

(4) Where the Provincial Treasury is notified as contemplated in subsection (3), it must investigate the matter and advise the relevant accounting officer or accounting authority of its findings and recommend how the relevant accounting officer or accounting authority should deal with the matter before the particular bid may be awarded.

(5) Where an auditor provides an assurance as contemplated in subsection (1)(c), the auditor does so in his or her professional capacity as an auditor as contemplated in the Auditing Professions Act, 2005 (Act No. 26 of 2005).

Adjudication of tenders in public

3D. (1) The accounting officer or accounting authority of a provincial department or provincial public entity, as the case may be, when contracting for goods or services exceeding the amount determined by the Provincial Treasury, must ensure that

- (a) the details of the closing date in respect of each public invitation to bid issued by that provincial department or provincial public entity and the dates on which the bids submitted in response to such public invitation to bid will be evaluated and adjudicated are published in the manner and form determined by the Provincial Treasury; 5
- (b) the provincial department or provincial public entity gives adequate public notice of meetings of its bid adjudication committee at which bids will be considered in the manner and form determined by the Provincial Treasury;
- (c) meetings of the bid adjudication committee at which reports of the bid evaluation committee are presented for consideration are made open to members of the public and bidders to attend; and 10
- (d) the meetings referred to in paragraph (c) are recorded by the provincial department or provincial public entity concerned in the form and manner as prescribed. 15
- (2) Members of the public and bidders who attend meetings of bid adjudication committee contemplated in subsection (1)(c) may observe the proceedings of those meetings, but must not participate in or disrupt those proceedings.
- (3) A member of the public or a bidder that contravenes subsection (2) may be requested by the chairperson of the bid adjudication committee to leave the meeting and such member of the public or bidder must comply with such a request. 20

Gauteng Bid Appeals Tribunal

- 3E.** (1) There is hereby established an independent and impartial tribunal in the Province to be known as the Gauteng Bid Appeals Tribunal. 25
- (2) The term of office of members of the Tribunal is a maximum of three years and a member may not serve more than two terms.
- (3) The MEC must prescribe the seat of the Tribunal.

Composition of Gauteng Bid Appeals Tribunal 30

- 3F.** (1) The Gauteng Bid Appeals Tribunal consists of no less than three and no more than five members who are appointed by the MEC on a part-time basis subject to prior approval of the Executive Council, of whom at least—
- (a) one member must be admitted to practice as a legal practitioner in the Republic and has experience related to the application or administration of law, or has lectured in law at a university, in the Republic; 35
- (b) one member who has extensive knowledge, experience and qualifications in the field of economics and finance; and
- (c) one member who has extensive knowledge of and suitable qualifications in the practice of supply chain management, including the application of related legislation and processes thereof. 40
- (2) The quorum for the meetings of the Tribunal is constituted by at least three members of the Tribunal, of whom one member must be the chairperson designated in terms of subsection (3)(a) or another member acting as chairperson designated in terms of subsection (3)(b). 45
- (3) The MEC must—
- (a) subject to prior approval of the Executive Council, designate a member of the Tribunal contemplated in subsection (1) as the chairperson; and 50
- (b) whenever the chairperson is absent or unable to perform the functions of the chairperson, or the office of the chairperson is vacant, designate another member to act as the chairperson of the Tribunal, either specifically for a particular meeting or temporarily until the chairperson is available or able to resume his or her functions, or the vacancy in the office of the chairperson is filled. 55

Procedure for appointment of members of Gauteng Bid Appeals Tribunal

- 3G.** (1) Before the appointment of the members of the Gauteng Bid Appeals Tribunal, the MEC must, in at least two newspapers circulating widely in the Province and by notice in the Provincial *Gazette*, call for nominations for a period of at least 14 days of suitable candidates for appointment. 5
- (2) The MEC must, within 30 days after the closing date for nominations of suitable candidates for appointment, in the same newspapers and notice contemplated in subsection (1) 10
- (a) publish the names and particulars of persons who
 - (i) have been nominated as suitable candidates for appointment as members of the Tribunal; and
 - (ii) subject to sections 3H(1) or 3I, are considered as suitable candidates for appointment as members of the Tribunal; and 15
 - (b) invite the public to submit written comment in relation to a person who is being considered as a suitable candidate for appointment.
- (3) Subject to subsections (1) and (2), the MEC must
- (a) compile a short list of names and particulars of persons who are suitable candidates for appointment as members of the Tribunal; 20
 - (b) ensure that the short list contemplated in paragraph (a) represents —
 - (i) a broad section of the population of the Province with special attention to race, gender, youth, disability and geographical spread; and
 - (ii) a broad criteria of knowledge, experience and skills contemplated in section 3E(1); and 25
 - (c) submit to the Executive Council the short list contemplated in paragraph (a) and the recommended list of names of candidates who are suitable for appointment as members of the Tribunal for— 30
 - (i) prior approval by the Executive Council; and
 - (ii) appointment by the MEC as members of the Tribunal.

Disqualification for membership of Gauteng Bid Appeals Tribunal

- 3H.** (1) A person may not be appointed or continue to serve as a member of the Gauteng Bid Appeals Tribunal if that person— 35
- (a) is not a citizen or permanent resident of the Republic of South Africa;
 - (b) is a member of Parliament, a Provincial Legislature, a Municipal Council or a House of Traditional Leaders;
 - (c) is an unrehabilitated insolvent;
 - (d) has been declared by a court of law to be mentally incompetent or has been detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002); 40
 - (e) has at any time been convicted of an offence involving dishonesty;
 - (f) has at any time been removed from an office of trust on account of misconduct;
 - (g) has previously been removed from the Tribunal for a breach of any provision of this Act; or 45
 - (h) fails to comply with any provision of this Act.
- (2) A member must resign and vacate office if that member becomes subject to a disqualification contemplated in subsection (1).
- (3) A member of the Tribunal 50
- (a) must make full disclosure of any conflict of interest, including any potential conflict; and
 - (b) may not attend, participate or vote in any proceedings of the Tribunal in relation to any matter in respect of which the member has a conflict of interest. 55
- (4) For the purposes of this section, a member has a conflict of interest if
- (a) the member, a family member, partner or business associate of the member is the bidder or has a pecuniary or other interest in the matter before the Tribunal; or 60

- (b) the member has any other interest that may preclude or may reasonably be perceived as precluding the member from performing the functions of the member in a fair, unbiased and proper manner.

Termination of membership or removal from office

3I. The MEC may at any time remove any member of the Tribunal from office— 5

- (a) where a member has been disqualified in terms of section 3H(1), after giving such a member an opportunity to be heard; or

(b) if there are reasonable grounds justifying the removal.

Filling of vacancies 10

3J. (1) If a member resigns and vacates office or is removed from office in accordance with section 3H(2) or 3I, as the case may be, the MEC may appoint a person from the recommended list of names of candidates contemplated in section 3G(3)(c) to fill the vacancy for the unexpired portion of the previous member's term of office in accordance with section 3H(1). 15

(2) If the resignation or removal from office contemplated in subsection (1) affects the minimum number of the membership of the Tribunal, the MEC must appoint a person from the recommended list of names of candidates contemplated in section 3G(3)(c) to fill the vacancy of the vacating member's term of office in accordance with section 3H(1). 20

Appeals to Gauteng Bid Appeals Tribunal

3K. (1) A bidder who is aggrieved by a procedural aspect of a decision of the bid adjudication committee of a provincial department or provincial public entity when contracting for goods or services exceeding the amount determined by the Provincial Treasury may, in the prescribed form and manner and within 30 days of the date of decision, appeal against such decision to the Gauteng Bid Appeals Tribunal. 25

(2) Before lodging an appeal contemplated in subsection (1), the bidder concerned must, in the prescribed form and manner and within ten days of the date of the decision, file a notice of intention to appeal with the designated office at the department or public entity respectively. 30

(3) The respective department or public entity must upon receipt of the notice contemplated in subsection (2) and within ten days of the receipt of the notice, furnish the bidder, the Provincial Treasury, and any other interested party that requests a transcript with a transcribed copy, which has been certified as accurate, of the proceedings before the bid adjudication committee concerned. 35

(4) The appeal must be in the prescribed form and must be lodged with the designated office at the Provincial Treasury. 40

(5) The Tribunal must make its finding on an appeal within 60 days of the date of lodgement of an appeal contemplated in subsection (1), and may confirm—

(a) the decision of the bid adjudication committee; or

(b) the appeal lodged against such decision. 45

Effect of finding of Gauteng Bid Appeals Tribunal

3L. When approving a decision of the bid adjudication committee, an accounting officer or accounting authority of a provincial department or provincial public entity, as the case may be, must—

(a) consider the findings of the Gauteng Bid Appeals Tribunal in relation to any appeal lodged against the procedural aspect of such decision to the Tribunal; 50

(b) apply his or her mind with regard to such decision of the bid adjudication committee, on the one hand, and such appeal and findings of the Tribunal, on the other hand; and 55

(c) thereafter, independently and separately make his or her own decision in respect of the award of the bid.

Remuneration of members of Tribunal

3M. The MEC must, with the concurrence of the Executive Council, determine the remuneration and allowances of members of the Tribunal. 5

Regulations

3N. The MEC may make regulations and guidelines relating to
(a) any matter or thing that must be prescribed in terms of this Act;
(b) a framework or procedure to ensure the uniform and effective implementation of this Act. 10

Treasury instructions

3O. (1) The Provincial Treasury may issue treasury instructions applicable to provincial departments and provincial public entities regarding any matter in terms of this Act which the Provincial Treasury considers necessary or expedient to prescribe to ensure the uniform and efficient implementation of this Act. 15
(2) Before issuing an instruction contemplated in subsection (1), the Provincial Treasury must –
(a) consult with the relevant provincial departments and provincial public entities; and 20
(b) seek the concurrence of the MEC on the final version of an instruction.
(3) An instruction issued under this section has the same force and effect as a regulation made under section 3G of this Act.

Short title and commencement

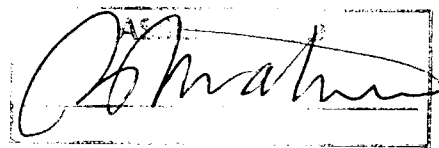
6. This Act is called the Gauteng Finance Management Supplementary Amendment Act, 2019, and comes into operation on a date determined by the Premier by proclamation in the Provincial *Gazette*. 25

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 508 OF 2019

GAUTENG PROVINCIAL LEGISLATURE

GAUTENG PROVINCIAL
LEGISLATURE MONEY BILLS
AMENDMENT PROCEDURE AND
RELATED MATTERS ACT



CERTIFIED CORRECT AS PASSED BY
THE GAUTENG PROVINCIAL LEGISLATURE

SIGNED *[Signature]*
SPEAKER

DATE *29/03/2019*

ENGLISH TEXT SIGNED BY THE PREMIER

ASSENTED TO ON: *30/04/2019*

No 5, 2019

ACT

To provide for a procedure to amend money Bills before the Gauteng Provincial Legislature.

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;

WHEREAS the Constitution provides that only the Member of the Executive Council responsible for financial matters in the Province may introduce a money Bill;

WHEREAS the Constitution provides that legislative authority of a Province is vested in its Provincial Legislature;

WHEREAS the Constitution provides that a Provincial Act must provide for a procedure to amend money Bills before the Provincial Legislature;

AND WHEREAS the purpose of amending money Bills, is to ensure that the Provincial Budget is responsive to the needs of the people of Gauteng.

BE IT THEREFORE ENACTED by the Gauteng Provincial Legislature, as follows:---

Definitions

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

‘**Budget Committee**’ means a committee established in terms of this Act responsible for amendments proposed on money Bills, matters of expenditure and other related matters; 5

‘**Committee**’ means a committee of the Legislature established in terms of the Gauteng Provincial Legislature Standing Rules or any other Act;

‘**Constitution**’ means the Constitution of the Republic of South Africa, 1996; 10

‘**Day**’ means any day other than a Saturday, Sunday, public holiday or day on which the Legislature is on recess;

‘**Department**’ means a provincial department or provincial government component or any provincial entity;

‘**Division of Revenue Act**’ means the Act of Parliament which must annually be enacted in terms of section 214 (1) of the Constitution; 15

‘**Financial year**’ means a year ending 31 March;

‘**Financial statements**’ means statements consisting of at least --

(a) a balance sheet;

(b) an income statement; 20

(c) a cash-flow statement;

(d) any other statements that may be prescribed; and

(e) any notes to these statements.

- ‘Fiscal Framework’** means the framework for a specific financial year that gives effect to the Provincial Executive’s macro-economic policy and includes:
- (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 the borrowing of a financial year;
 - (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 Legislature meeting in plenary;
- ‘Legislature’** means the Gauteng Provincial Legislature;
- ‘Medium term budget policy statement’** is a provincial policy that sets out funding priorities, it reveals the intended spending plans of government for three years and it sets out the provincial policy framework for the next coming financial year;
- ‘MEC’** means the Member of the Executive Council responsible for Provincial financial matters;
- ‘Member’** means a member of the Legislature including the Members of the Executive Council;
- ‘Money Bill’** is the Bill referred to in section 120 of the Constitution, or part of such a Bill;
- ‘PFMA’** means the Public Finance Management Act, 1999 (Act No.1 of 1999) as amended;
- ‘Portfolio Committees’** means all committees of the Legislature responsible for overseeing various budget votes;
- ‘Provincial Adjustments Appropriation Bill’** means the Bill that provides for the adjustments to appropriation necessary to give effect to the Provincial adjustments budget;
- ‘Provincial Appropriation Bill’** means a Bill that annually appropriates money for the Province for a particular financial year;
- ‘Provincial Adjustments Budget’** means the Provincial adjustments budget referred to in section 31 of the Public Finance Management Act;
- ‘Provincial Annual Budget’** means the Provincial annual budget referred to in section 27 (2) of the Public Finance Management Act;
- ‘Secretary to the Legislature’** means the Secretary to the Legislature or person designated to act as Secretary;
- ‘Speaker’** means Speaker of the Legislature or the person designated to act as Speaker;
- ‘Standing Rules’** means the rules and orders of the Legislature;
- ‘This Act’** includes any regulations made in terms of this Act;
- ‘Vote’** means one of the main segments into which an appropriation Act is divided and which:
- (a) specifies the total amount which is usually appropriated per department in an appropriation Act; and
 - (b) is separately approved by the Legislature, as may be appropriate, before it approves the relevant draft appropriation Act as such.

Objects of this Act

2. (1) The objects of this Act are to
- (a) give effect to section 120(3) of the Constitution;
 - (b) enhance the exercise of oversight over the Provincial Executive on the Provincial budget; and
 - (c) enhance public participation on amendments of money Bills.

Application of this Act

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

Establishment and Composition of the Budget Committee for consideration of Money Bills

4. (1) The Act hereby establishes a Budget Committee in the Legislature.
- (2) The Budget Committee must consist of ordinary Members proportional to their representation in the Legislature. 5
- (3) Chairpersons of various portfolio Committees will serve as ex-officio Members in the Budget Committee.
- (4) The Speaker must appoint the Chairperson of the Committee.
- (5) The Budget Committee has the powers and functions conferred on it by this Act and the Standing Rules. 10

Functions

5. (1) The Budget Committee examines the draft budget policy statement presented to the House, evaluate budget estimates, economic and budgetary policies and programmes with direct outlays.
- (2) The functions of the Budget Committee includes considering and reporting on— 15
- (a) amendment of the Provincial Appropriation Bill;
 - (b) actual expenditure published by the Provincial Treasury;
 - (c) actual revenue published by the Provincial Treasury;
 - (d) recommendations of the Financial and Fiscal Commission, including those referred to in the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 20 1997); and
 - (e) any other related matter set out in this Act.
- (3) The Budget Committee must receive reports on budget from committees—
- (a) consider total aggregates of the budget;
 - (b) invite members of portfolio committees to attend the Budget Committee 25 meetings when issues relating to their sector are being considered; and
 - (c) make recommendations to the House on the overall budget allocation.
- (4) In consideration of (3) the committee may engage other organs of states and relevant bodies.

Powers 30

6. (1) The Budget Committee may determine its own—
- (a) procedures; and
 - (b) annual programmes in accordance with the Standing Rules.
- (2) The Budget Committee must— 35
- (a) consider Money Bills referred to it;
 - (b) investigate and report on issues that are referred to it or on its own initiative;
 - (c) call any person to provide evidence; summons persons to appear before it and require people to produce any documents it requires;
 - (d) hold public hearings, receive comments from the public; and
 - (e) exercise any powers granted to it by this Act, any other relevant legislation 40 and Standing Rules.

Procedure prior to introduction of the Provincial budget

7. (1) The Legislature, through its committees, must annually assess the performance of each Provincial Department, with reference to the following:
- (a) the medium-term estimates of expenditure of each Provincial Department, its strategic priorities and measurable objectives, as tabled in the Legislature with the Provincial budget; 45
 - (b) annual performance plans;
 - (c) the expenditure report relating to each Department published by the Provincial Treasury; 50
 - (d) the financial statements and annual report of each Department;
 - (e) the reports of the Auditor General relating to each Department;
 - (f) the reports of the Committee on Public Accounts relating to each Department; and

- (g) any other information requested by or presented to the Legislature.
- (2) Committees must annually submit budgetary review and recommendation reports for tabling in the Legislature for each Department.
- (3) A budgetary review and recommendation report
- (a) must provide for an assessment of the Department's service delivery performance;
 - (b) must provide for an assessment on the effectiveness and efficiency of the Department's use of available resources; and
 - (c) may include recommendations on the advance use of resources.
- (4) Any budgetary review and recommendation report must prior to the adoption of the reports on the Medium-Term Budget Policy Statement
- (a) be submitted to the MEC responsible for provincial financial matters and MEC responsible for the vote to which the report applies after its adoption by the Provincial Legislature.
- (5) Additional budgetary and recommendation reports may be submitted at the discretion of the Committee.

Medium Term Budget Policy Statement

8. (1) At least four months prior to the introduction of the Provincial budget, the MEC responsible for financial matters must submit to the Legislature a medium term budget policy statement.
- (2) The Medium-Term Budget Policy Statement must include
- (a) an explanation of the economic and fiscal policy position, the economic projections and the assumptions underpinning the fiscal framework;
 - (b) the spending priorities of provincial government for the next three years;
 - (c) the conditional grant allocations to Departments, if any; and
 - (d) a review of actual spending by each Department between 1 April and 30 September of the current fiscal year.
- (3) The Speaker must refer matters referred to in subsections (2) to the Committee and each portfolio committee of the Legislature immediately after the submission of the Medium-Term Budget Policy Statement by the MEC responsible for financial matters.
- (4) Each Portfolio Committee shall
- (a) consider, discuss and review the Medium-Term Budget Policy Statement served upon it under subsection (3) specifically on matters of its concern and jurisdiction; and
 - (b) submit its report to the Committee within 30 days after receipt of the Medium-Term Budget Policy Statement from the Speaker.
- (5) The Budget Committee must
- (a) scrutinize the allocations and the reports of the Portfolio committees; and
 - (b) within 30 days after receiving reports from portfolio committees submit its recommendations to the House.
- (6) The Speaker must immediately send the House resolutions to the MEC

Introduction of the Provincial Annual Budget

9. (1) The MEC must table the Provincial Annual Budget in the Legislature as set out in terms of section 27(2) of the PFMA.
- (2) In addition to tabling the Provincial Annual Budget as stipulated in subsection (1) the MEC must table the following
- (a) the proposed fiscal framework for the financial year and subsequent two years;
 - (b) the key economic assumptions underlying the fiscal framework over the medium term expenditure framework;
 - (c) key fiscal ratios for the financial year and subsequent two years, including revenue, expenditure and the primary and overall balance at the end of the financial year as a percentage of gross domestic product;
 - (d) other revenue proposals, including the contribution of the different revenue categories to Provincial revenue for the financial year and subsequent two years;
 - (e) cyclical factors taken into account in the formulation of the fiscal framework for the financial year and subsequent two years;

- (f) an estimate and breakdown of contingent liabilities for the financial year and subsequent two years; and
- (g) any other relevant information and information so requested by the House from time to time.

Passing the Provincial Appropriation Bill

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10. (1) The MEC must introduce the Appropriation Bill in the House and table the proposals setting out the following—

- (a) strategic priorities;
- (b) measurable objectives;
- (c) other performance information for each Department, public entity or institution against its expected revenue and proposed expenditure by programme, sub-programme; and
- (d) economic items of expenditure.

(2) The Members of the Executive Council must table the updated annual performance plans for their respective Departments, which must be referred to the relevant committee for consideration and reporting. 15

(3) The Provincial Appropriation Bill must be referred to the Committee.

(4) The Committee must mediate between committees proposing conflicting amendments to the Provincial Appropriation Bill.

(5) Any amendments to the Appropriation Bill must be consistent with the adopted fiscal framework. 20

(6) The Committee must recommend to the House that proposed amendments reported by other committees are rejected where those amendments are inconsistent with the fiscal framework or not motivated adequately in terms of this Act.

(7) The Committee must give the MEC responsible for financial matters and any other MEC affected by the proposed amendments at least 10 working days to respond to any amendments proposed to the Provincial Appropriation Bill prior to reporting to the House. 25

(8) A report of the Committee to the House on Provincial Appropriations that proposes amendments to the main Provincial Appropriation Bill must, in respect of each amendment— 30

- (a) indicate the reason for such proposed amendment;
- (b) demonstrate how the amendment takes into account the strategic priorities and allocations of the relevant budget;
- (c) demonstrate the implications of each proposed amendment for an affected vote and the main divisions within that vote; 35
- (d) demonstrate the impact of any proposed amendment on the balance between transfer payments, capital and recurrent spending in an affected vote;
- (e) set out the impact of any proposed amendment on service delivery; and
- (f) set out the manner in which the amendment relates to— 40
 - (i) prevailing Departmental strategic plans,
 - (ii) reports of the Auditor General,
 - (iii) committee reports adopted by the House,
 - (iv) reports in terms of the Public Finance Management Act,
 - (v) annual reports; and 45
 - (vi) any other relevant information submitted to the House or committee in terms of the Standing Rules or on request.

(9) A report in terms of subsection (8) must include the responses of the MEC to any proposed amendments.

(10) Any Committee may advise the Budget Committee 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— 50

- (a) the Committee specifies the condition that needs to be met before the Committee may recommend to the House that the funds be released; 55
- (b) the MEC must be given 2 working days to respond to the proposed conditional appropriation;
- (c) a recommendation to the House that a sub-division of a main division within a vote is appropriated conditionally must be accompanied by the response from the MEC; and 60

(d) the House must consider the recommendation of the Committee to release the funds within 7 working days after the Committee reported to the House.

(11) The Legislature must pass, with or without amendments, or reject the Provincial Appropriation Bill within 4 months after the start of the financial year to which it relates.

Amending Revenue Bills and Revenue Proposals

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11. (1) In amending revenue Bills and revenue proposals the Legislature through the Budget Committee must:

- (a) ensure that the total amount of revenue raised is consistent with the fiscal framework and the relevant Division of Revenue Act;
- (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

Provincial Adjustments Appropriation Bill

12. (1) The MEC for finance must introduce the adjustments to the Provincial Appropriation Bill and table it with the Provincial adjustments budget in the House.

(2) The Speaker must refer the adjustments to the Provincial Appropriation Bill together with the Provincial adjustments budget to the Committee and to the Portfolio Committees. 20

(3) The Budget Committee must report to the House on amendments to the Provincial Adjustments Appropriation Bill.

(4) Portfolio Committees must consult with the Budget Committee on amendments to transfer payments, recurrent and capital expenditure of a vote or a main division within a vote, taking into consideration the reports by Portfolio Committees on annual budgetary review and recommendations to Departments or any other report adopted by the House. 25

(5) The Budget Committee must mediate between Portfolio committees proposing conflicting amendments to the Provincial Adjustments Appropriation Bill. 30

(6) The Budget Committee must within 2 weeks after receiving reports from other committees recommend to the House that the proposed amendments are recommended, or rejected where those amendments are inconsistent with the fiscal framework, or not motivated adequately in terms of this section whichever the case maybe. 35

(7) The MEC must be given at least 4 working days to respond to any proposed amendments to the Provincial Adjustments Appropriation Bill by the Committee.

(8) The Budget Committee must report to the House within 30 working days after the tabling of the Provincial adjustments budget.

Amendments proposed by the MEC

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

Institutional Arrangements

14. (1) The Legislature must establish an independent structure to support the implementation of the Act, whose main objective is to provide non-partisan, high-quality and independent technical analysis, objective and professional advice to the Legislature on matters related to the budget and other money Bills. 45

(2) This structure may obtain information it requires for the performance of its functions from any organ of state or person it considers appropriate. 50

Public Participation

15. (1) The Budget Committee, when considering amendments on money bills, **[should] must** seek representations from the public and other **relevant** stakeholders.

(2) The Budget Committee shall take into account such recommendations when making its recommendations to the House.

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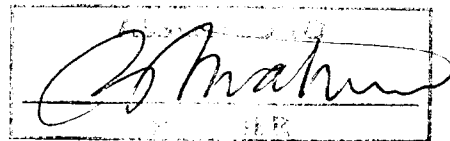
Short title

16. This Act is called the Gauteng Provincial Legislature Money Bills Amendment Procedure and related matters Act, 2019 and comes into operation on a date to be determined by the Speaker by proclamation in the Provincial *gazette*.

PROVINCIAL NOTICE 509 OF 2019

GAUTENG PROVINCIAL LEGISLATURE

**FINANCIAL MANAGEMENT OF
THE GAUTENG PROVINCIAL
LEGISLATURE REPEAL ACT**



CERTIFIED CORRECT AS PASSED BY
THE GAUTENG PROVINCIAL LEGISLATURE
SIGNED *[Signature]* SPEAKER
DATE 29/03/2019

ENGLISH TEXT SIGNED BY THE PREMIER
ASSENTED TO ON: 30/04/2019

No 4, 2019

ACT

To repeal the Financial Management of the Gauteng Provincial Legislature Act 7 of 2009 in line with the Financial Management of Parliament and Provincial Legislatures Act 10 of 2009.

BEEIT ENACTED by Gauteng Legislature as follows:

Repeal of Act 7 of 2009

1. The Financial Management of the Gauteng Provincial Legislature Act 7 of 2009 is hereby repealed.

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Short title

2. This Act is called Financial Management of the Gauteng Provincial Legislature Repeal Act, 2019.