

NORTHERN CAPE PROVINCE

PROFENSI YA KAPA-BOKONE



NOORD-KAAP PROVINSIE

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**Provincial Gazette
Kasete ya Profensi**

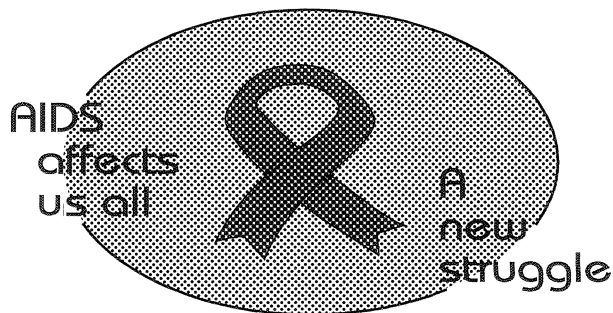
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JUNIE 2013**

No. 1706

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DEPARTMENT OF HEALTH

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CONTENTS • INHOUD*No.**Page
No. Gazette
 No.***PREMIER'S NOTICE**

7 Northern Cape Appropriation Act (2/2013): For General Information 3 1706

PREMIER'S NOTICE

No. 7

27 June 2013

OFFICE OF THE PREMIER

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information.

No. 2 of 2013: Northern Cape Appropriation Act, 2013

The English text of this Act has been as:
to by me on 21 June 2013
[Signature] Sylvia E. Lucas
PREMIER: NORTHERN CAPE PROVINCE.

NORTHERN CAPE PROVINCE

=====

NORTHERN CAPE APPROPRIATION ACT, 2013
(ACT No. 2 OF 2013)

Certified correct as passed by the
Northern Cape Provincial Legislature

[Signature]
Secretary to the Legislature

NORTHERN CAPE PROVINCE

**NORTHERN CAPE APPROPRIATION
ACT, 2013**

*(As introduced by the MEC for FINANCE, ECONOMIC DEVELOPMENT AND
TOURISM)*

[2- 2013]

ACT

To provide for the appropriation of money from the Northern Cape Provincial Revenue Fund for the requirements of the Northern Cape Province in respect of the financial year ending 31 March 2014 and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 226(2) of the Constitution of the Republic of South Africa, 1996 provides that money may be withdrawn from the Provincial Revenue Fund only in terms of an appropriation by an Act of Provincial Legislature;

AND WHEREAS section 26 of the Public Finance Management Act, 1999 (Act 1 of 1999) provides that the Northern Cape Provincial Legislature must appropriate money for each financial year for the requirements of the province;

AND WHEREAS section 36 of the Municipal Finance Management Act, 2003 (Act 56 of 2003), provides that the Member of Executive Council responsible for finance in a province must, to the extent possible, when tabling the provincial annual budget in the Provincial Legislature, make public particulars of any allocations due to each municipality in terms of that budget, including the amount to be transferred to the municipality during each of the next three financial years,

BE IT THEREFORE ENACTED by the Northern Cape Provincial Legislature, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Public Finance Management Act has the meaning assigned to it in that Act and —

“**conditional allocation**” in relation to a municipality means, a conditional allocation to the municipality as contemplated in section 5 ;

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

“**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;

“**framework**” means the conditions and other information in respect of a conditional allocation published by the Provincial Treasury in terms of the Division of Revenue Act;

“**Municipal Finance Management Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) ;

“**Payments for capital assets**” means any payment made by a provincial department –

- (a) for an asset that can be used continuously or repeatedly in production for more than one year, and which is expected to have future economic benefits or service potential for the provincial department making the payment; and
- (b) that must be classified as or deemed to be a payment for capital assets in accordance with the Reference Guide to the new Economic Reporting Format (November 2003, Version 2) and the Asset Management Framework (April 2004, Version 3.3), issued by the National Treasury under section 76 of the Public Finance Management Act;

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

“**transferring provincial officer**” means the accounting officer of the provincial department that transfers a conditional allocation to a municipality; and

“**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.

Appropriation of money for the requirements of the Northern Cape Province

2. (1) Appropriations by Northern Cape Provincial Legislature of money from the Northern Cape Provincial Revenue Fund for the requirements of the Northern Cape Province in the 2013/14 financial year, to votes and main divisions within a vote, and for the specific listed purposes, are set out in Schedule to this Act.

(2) Subject to section 3, spending of appropriations is subject to the provisions of the Public Finance Management Act.

Appropriation listed as specifically and exclusively

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

Utilisation of saving

4. Despite the provisions of any law, the Provincial Treasury may approve the utilisation of a saving in an amount appropriated under a vote for transfer to a specific institution, other than the amount specifically and exclusively appropriated, for any other purpose within a vote.

Conditional allocations to municipalities

5. Conditional allocations to municipalities from the provincial budget in respect of the 2013/14 financial year are set out in Annexure A. An envisaged division of the conditional allocations to municipalities from the provincial budget for the next financial year and the 2015/16 financial year, which is subject to the annual Northern Cape Appropriation Act for those years, is also set out in AnnexureA.

Withholding of conditional allocations

6. (1) A transferring provincial officer may withhold the transfer of a conditional allocation to a municipality or any portion of such allocation for a period not exceeding 30 days, if –

- (a) the municipality does not comply with conditions to which the allocation is subject; or
- (b) expenditure on previous transfers during the financial year reflects significant under-spending for which no satisfactory explanation is given.

(2) A transferring provincial officer must, at least 21 days, or such shorter period as may be approved by the Provincial Treasury, prior to withholding an allocation in terms of subsection (1)-

(a) give the relevant municipality-

- (i) written notice of the intention to withhold the allocation; and
- (ii) an opportunity to submit written representations, within those 21 days as to why the allocation should not be withheld; and

(b) inform the Provincial Treasury and the provincial department responsible for local government of its intention to withhold the allocation.

(3) A notice contemplated in subsection (2) must include the reasons for withholding the allocation and the intended duration of the withholding.

(4)(a) The Provincial Treasury may, when a transferring provincial officer is withholding an allocation in terms of subsection (1), instruct that officer, or approve a request from that officer to withhold an allocation for a period longer than 30 days, but not exceeding 120 days, if the withholding will-

- (i) facilitate compliance with the conditions to which the allocation is subject; or
- (ii) minimise the risk of under-spending.

(b) A transferring provincial officer must, when requesting the withholding of an allocation in terms of this subsection, submit proof of its compliance with subsection(2) and a copy of any representations received from the municipality concerned, to the Provincial Treasury.

(c) The transferring provincial officer must again comply with subsection (2) when the Provincial Treasury instructs or approves a request in terms of paragraph (a).

Stopping of conditional allocations

7. (1) Despite section 6, the Provincial Treasury may in its discretion or at the request of a transferring provincial officer stop the transfer of a conditional allocation or any portion of such allocation to a municipality-

(a) on the grounds of a persistent and material non-compliance with conditions to which the allocation, as provided for in the relevant framework published in the *Provincial Gazette*, is subject; or

(b) if the Provincial Treasury anticipates that the municipality will substantially under spend on the programme or allocation concerned in the current financial year.

(2) The Provincial Treasury must before stopping an allocation in terms of this section-

(a) give the relevant receiving municipality-

(i) 21 days written notice of the intention to stop the allocation; and

(ii) an opportunity to submit written representations within those 21 days as to why the transfer of the allocation or part thereof should not be stopped; and

(b) consult the Member of Executive Council responsible for the provincial department wanting to stop the conditional allocation.

(3) Any stopping of an allocation contemplated in subsection (1) must, together with an explanatory memorandum, be published by the Provincial Treasury in the *Provincial Gazette*.

(4) The Member of Executive Council responsible for finance must report any stopping of allocations in terms of this section to the Provincial Legislature and the Auditor-General at the tabling of the next appropriation legislation in the Provincial Legislature after the commencement of this Act.

Re-allocation after stopping of allocation

8. The Provincial Treasury may, where it stops an allocation in terms of section 7, after consultation with the transferring provincial officer, determine that the allocation or any portion thereof be reallocated to one or more municipality on condition that the allocation must be spent in the current financial year or the next financial year.

Short title

9. This Act is called the Northern Cape Appropriation Act, 2013.

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