GENERAL NOTICE

NOTICE 865 OF 2008

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

Publication of Draft *MONEY BILL AMENDMENT PROCEDURE AND RELATED MATTERS BILL* [2008]

The Portfolio Committee on Finance was instructed by the National Assembly to consider a procedure to amend money bills before Parliament with a view to introducing a bill dealing with the matter. The Committee hereby publishes a draft of the Money Bill Amendment Procedure and Related Matters Bill, 2008 for comment. Interested persons and institutions are invited to submit written comments on the draft legislation on or before 31 July 2008, to the following persons:

The Secretary to Parliament
For the attention of:
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Money Bills Amendment Procedure and Related Matters Bill

To provide for a Procedure to Amend Money Bills before Parliament and Related Matters.

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;
- the legislative authority of the national sphere of government is vested in Parliament and therefore Parliament may amend money Bills;

AND 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:

AND WHEREAS the Constitution of the Republic of South Africa, 1996, provides that an Act of Parliament must provide for a procedure to amend money Bills before Parliament:

Be it therefore enacted by the Parliament of the Republic of South Africa as follows:-

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

'**annual 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;

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

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

'fiscal framework' means the relevant fiscal framework as reflected in the national macro-economic policy;

'House' means the National Assembly or the National Council of Provinces, as the case requires;

'joint committee' means a committee consisting of members of both Houses of Parliament;

'joint rules' means the rules referred to in section 45 of the Constitution;

'**Minister**' means the Cabinet member responsible for national financial matters;

'**money Bill'** is a Bill referred to in section 77 of the Constitution, or a part of such Bill;

'**National Treasury**' means the National Treasury established by section 5 of the Public Financial Management Act, 1999;

'Parliament' means the National Assembly and the National Council of Provinces as envisaged in section 42 of the Constitution;

"Public Finance Management Act" means the Public Finance Management Act, 1999 (Act 1 of 1999);

'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 under section 57 or 70 of the Constitution, as well as the joint rules;

'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.

2. **Interpretation of this Act.** –Every person interpreting or applying this Act must–

   (1) 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

   (2) take into account the relevant fiscal framework submitted to and adopted by Parliament.

3. Application of this Act. –This Act applies to all proposed amendments to money Bills before Parliament.

4. Parliamentary committees for consideration of proposed amendments. –

(1) Each House must establish a committee to engage with the national macro-economic and fiscal policy and to consider all amendments to money Bills.

(2) The committees referred to above may meet jointly on matters affecting the annual Division of Revenue Bill.

(3) The standing rules must provide for –

(a) the composition of the committee;

(b) the election of the chairperson;

(c) the functions of the committee, including:

i. consideration of the national government's fiscal policy framework and macro-economic policy;

ii. consideration of national public finances;

iii. consideration of all money bills and any proposed amendment to money Bills;

iv. consideration of recommendations of the Financial and Fiscal Commission, including those referred to in the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997);

v. consideration of relevant reports on revenue and expenditure, and estimates on revue and expenditure, published by the National Treasury, including the reports published in terms of sections 28 and 32 of the Public Finance Management Act;

vi. consultation with the Financial and Fiscal Commission, the Minister and the National Treasury, where necessary;

vii. reporting on the progress of any aspect of the legislative budget process, when required by the relevant House; and

viii. referring money Bills to other committees.

5. Information required prior to introduction of national budget

At least three months before the introduction of the national legislation appropriating money for the requirements of the state in terms of section 213(2) of the Constitution and section 26 of the Pubic Finance Management Act, the Minister must submit to Parliament:

(1) statements on the national government's fiscal policy framework and macro-economic policy;

(2) statements on the intergovernmental financial and fiscal relations; and

(3) the medium term budget policy statement together with draft budget allocations for each programme within a vote as approved by Cabinet.

6. National government's fiscal policy framework and macro-economic policy

Parliament may amend a money Bill in accordance with the procedure established in this Act after:

(1) considering and adopting the fiscal framework; and

(2) passing the annual Division of Revenue Bill relating to the same national budget as the said money Bill.

7. Procedure for amending money Bills

(1) All money Bills introduced in the National Assembly must be referred to the relevant committee referred to in section 4(1).

(2) The committees referred to in section 4(1) may refer a money Bill to any other committee of the relevant House, or a joint committee.

(3) Any committee proposing an amendment to a money Bill must motivate such proposal with reference to the following items:

(a) the relevant fiscal framework adopted by Parliament;

(b) the broad strategic priorities and allocations of the relevant budget;

(c) in respect of the relevant vote, the estimates for revenue and expenditure for multi-year budget projections tabled in terms section 28 of the Public Finance Management Act;

(d) adjustments to the annual appropriation of money from the National Revenue Fund for the requirements of the State;

(e) annual reports pertaining to the department, entity or institution which is affected by the proposed amendment;

(f) the annual Division of Revenue Bill and the recommendations from the Financial and Fiscal Commission on that Bill as envisaged in section 214 of the Constitution and section 10 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997);

(g) any other reports from the Financial and Fiscal Commission;

(h) relevant reports on revenue and expenditure submitted by the National Treasury to Parliament or a House;

(i) relevant committee reports, including reports on the draft budget allocations submitted in terms of section 5 of this Act and the most recent reports from the committee mandated to considers findings by the Auditor-General, which has financial implications and impact on service delivery;

(j) public comments on the proposed money Bills or annual Division of revenue Bill; and

(k) any other information submitted to a House or committee in terms of the standing rules or on request.

(4) A committee must refer the proposed amendments to the Minister and any Cabinet member whose area of responsibility would be affected by the proposed amendment before considering approval of the proposed amendment.

(5) A committee may not approve the proposed amendments within 30 days of referring these to the Minister, unless the Minister indicates to the committee that he or she has had sufficient time to consider the proposed amendments.

(6) The committees referred to in section 4(1) must review any amendment to a money Bill proposed by any other committee and report to the relevant House.

(7) A committee referred to in section 4(1) must take the items listed in subsection (3) into account when considering a report relating to a proposed amendment to a money Bill.

(8) The relevant committee referred to in section 4(1) must report to the National Assembly within four months of the introduction of the money Bill under consideration.

(9) A report to a House of a committee referred to in section 4(1) relating to a proposed amendment must at least indicate –

(a) its reasons for reporting the amendments in light of subsection (3);

(b) a summary of public comments on the proposed amendments; and

(c) a summary of the views of the Minister and, where applicable, those of any other Cabinet member.

(10) Notwithstanding any provision in this Act, a committee may consider an amendment to a money Bill proposed by the Minister to the committee in order to effect technical corrections on the Bill.

(11) If no amendments are proposed to a money Bill that has been referred to a committee in terms of subsection (2), that committee must report to the relevant House on the Bill, after informing the committee referred to in section 4(1).

(12) If amendments are proposed to a money Bill that has been referred to a committee in terms of subsection (2), that committee must:

(a) report the proposed amendment to the relevant committee referred to in section 4(1); and

(b) after the committee referred to in section 4(1) considered the proposed amendments, report to the relevant House on the money Bill and the consideration of the relevant committee referred to in section 4(1).

(13) A House may adopt, reject or amend any proposed amendments to a money Bill.

(14) A House must adopt a money Bill as introduced by the Minister if it fails to pass the proposed amendments within four months of the start of the financial year to which that Bill relates.

(15) The rules and orders established in terms of section 45 of the Constitution must provide for reasonable timeframes in which to propose and consider amendments to money Bills.

8. Establishment of a budget office

(1) The Secretary to Parliament is responsible establishing a budget office within the administration for Parliament.

(2) The budget office must provide dedicated administrative support to the committees referred to in section 4(1).

(3) The dedicated administrative support must include research and technical experts in the area of public finances:

(a) to assist the National Assembly and the National Council of Provinces and their committees with key questions, and, where applicable, during key events concerning the public finances;

(b) to identify possible trade-offs or desirable amendments between votes;

(c) to facilitating communication between the Parliament and provincial legislatures regarding matters on public spending and public financial management matters; and

(d) to assist with any other matter before the committees referred to in section 4(1).

9. Short Title

This Act is called the Money Bills Amendment Procedure and Related Matters Act, 2007.

MEMORANDUM ON THE OBJECTS OF THE MONEY BILL 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 affairs 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 that an Act of Parliament must provide for a procedure to amend money Bills before Parliament.

2. OBJECTS OF THE BILL

This draft Money Bill Amendment Procedure and Related Matters Bill seeks to establish a procedure to amendment money Bills before Parliament within the context of oversight findings and the adoption of a fiscal framework. It also requires the Secretary to Parliament to establish a budget office to support this procedure.

3. CONTENT OF THE BILL

1. Clause 1 sets out the definitions of terms used in the Bill.

2. Clause 2 sets out the parameters within which the Bill must be interpreted.

3. Clause 3 provides that the Bill applies to all proposed amendments to money Bills before Parliament.

4. Clause 4 requires that each House establishes a committee to engage with the national macro-economic and fiscal policy and to consider all amendments to money Bills.

5. Clause 5 requires the Minister of Finance to submit to Parliament statements on the national fiscal policy framework and macro-economic policy; statements on the intergovernmental financial and fiscal relations; and, the medium term budget policy statement together with a draft national budget three months before the introduction of the Appropriation Bill.

6. Clause 6 provides that Parliament may amend a money Bill in accordance with the procedure established in the Bill after considering and adopting the national fiscal framework and passing the Division of Revenue Bill relating to the same financial year as the relevant money Bill.

7. Clause 7 sets out the procedure for proposing and adopting amendments to money Bills, including referring the Bill to the Minister of Finance for comments. Provision is also made for time-frames.

8. Clause 8 requires the Secretary to Parliament to establish a budget office to provide dedicated administrative support to the Houses and committees considering the proposed amendments to money Bills.

9. Clause 9 provides for the short title of the Bill.

4. DEPARTMENTS/BODIES/PERSONS CONSULTED

The Task Team responsible for drafting the Bill consulted Ms A Folscher during the drafting process.

5. IMPLICATIONS FOR PROVINCES

None.

6. FINANCIAL IMPLICATIONS FOR THE STATE

Implementation of the Bill will require the Secretary to Parliament to establish dedicated administrative support for the procedure to amend money Bills. The financial implications of this could be assimilated into a reorganised administration that presently support committees mandated to consider the macro-economic and national fiscal policy. Additional finances will be required should the dedicated support envisaged in the Bill require the creation of additional posts.

7. PARLIAMENTARY PROCEDURE

7.1 The Parliamentary Legal Advisers are 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 Legal Adviser 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.