

REPUBLIC OF SOUTH AFRICA

FINANCE BILL

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

(MINISTER OF FINANCE)

[B 5—2012]

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BILL

To approve unauthorised expenditure; and to provide for matters connected therewith.

ARRANGEMENT OF SECTIONS

Sections

1. Interpretation
2. Approval of unauthorised expenditure
3. Recovery of unauthorised expenditure
4. Short title

Schedule 1

Unauthorised expenditure referred to in section 34(1)(a) of the Public Finance Management Act, 1999

Schedule 2

Unauthorised expenditure referred to in section 34(1)(b) of the Public Finance Management Act, 1999

Schedule 3

Unauthorised expenditure referred to in section 34(2) of the Public Finance Management Act, 1999

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

Interpretation

1. In this Act, unless the context indicates otherwise, a word or expression 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. 5

Approval of unauthorised expenditure

2. (a) The unauthorised expenditure referred to in Schedule 1 in the amount of R40 292 419.92, and described in the report of the National Assembly's Committee on Public Accounts identified in the second column of the Schedule, is authorised as an additional charge against the National Revenue Fund in terms of section 34(1)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999). 10

(b) The unauthorised expenditure referred to in Schedule 2 in the amount of R20 625 352.33, and described in the report of the National Assembly's Committee on Public Accounts identified in the second column of the Schedule, is authorised and 15

previously surrendered funds are reallocated to the vote in terms of section 34(1)(b) of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(c) The unauthorised expenditure referred to in Schedule 3 in the amount of R483 821 478.78, and described in the report of the National Assembly's Committee on Public Accounts identified in the second column of the Schedule, is authorised as a charge against the budget allocations of the Department of Correctional Services, in terms of section 34(2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and must be effected prior to 1 April 2015. 5

Recovery of unauthorised expenditure

3. This Act does not detract from or limit any right or obligation to take appropriate steps to recover unauthorised expenditure from a responsible official or former official. 10

Short title

4. This Act is called the Finance Act, 2012.

SCHEDULE 1: Unauthorised expenditure referred to in section 34(1)(a) of the Public Finance Management Act, 1999: An additional amount is appropriated as a direct charge against the National Revenue Fund to cover the overspending of the vote appropriation

Amount Unauthorised (R) Column 1	Committee on Public Accounts Report Reference Column 2	Financial Year Column 3	Vote Title Column 4
40 292 419.92	COPA 2011 9th report	2003/04	Defence and Military Veterans
40 292 419.92			

SCHEDULE 2: Unauthorised expenditure referred to in section 34(1)(b) of the Public Finance Management Act, 1999: Funds surrendered by the vote in respect of the listed unauthorised expenditure will be refunded as a direct charge against the National Revenue Fund in favour of the vote

Amount Unauthorised (R) Column 1	Committee on Public Accounts Report Reference Column 2	Financial Year Column 3	Vote Title Column 4
7 475 276.05	COPA 2011 9th report	1998/99	Defence and Military Veterans
2 376 437.00		1999/2000	Defence and Military Veterans
1 534 659.00		2000/01	Defence and Military Veterans
1 464 766.00		2001/02	Defence and Military Veterans
2 099 000.00		2002/03	Defence and Military Veterans
160 000.00		2003/04	Defence and Military Veterans
1 700 893.13		1998/99	Defence and Military Veterans
1 765 920.44		1999/2000	Defence and Military Veterans
16 980.00		1999/2000	Defence and Military Veterans
2 031 420.71		2000/01	Defence and Military Veterans
20 625 352.33			

SCHEDULE 3: Unauthorised expenditure referred to in section 34(2) of the Public Finance Management Act, 1999: No additional amount is approved to cover the overspending of this vote. The amount must be charged against the budget allocations of the Department. This must be effected prior to 1 April 2015

Amount Unauthorised (R) Column 1	Committee on Public Accounts Report Reference Column 2	Financial Year Column 3	Vote Title Column 4
483 821 478.78	COPA 2011 11th report	2008/09	Correctional Services
483 821 478.78			

MEMORANDUM ON THE OBJECTS OF THE FINANCE BILL, 2012

1. BACKGROUND

- 1.1 The Finance Bill, 2012 (“the Bill”), provides for the authorisation of national government unauthorised expenditure arising from 1998/99 to 2003/04, and in the 2008/09 financial year. This process follows section 34 of the Public Finance Management Act (Act No. 1 of 1999), (“PFMA”) and gives effect to the recommendations of the National Assembly’s Committee on Public Accounts (“SCOPA”).
- 1.2 Section 34 of the PFMA provides that unauthorised expenditure becomes a charge against a Revenue Fund only when—
 - (a) the expenditure is an overspending of a vote and Parliament approves, as a direct charge against the relevant Revenue Fund, an additional amount for that vote which covers the overspending; or
 - (b) the expenditure is unauthorised for another reason and Parliament authorises the expenditure as a direct charge against the relevant Revenue Fund.
- 1.3 If Parliament does not approve an additional amount for the amount of any overspending of a vote as indicated in paragraph 1.2.1(a), that amount becomes a charge against the funds allocated to the relevant vote for the next or future financial years.
- 1.4 In terms of section 213(2)(b) of the Constitution of the Republic of South Africa, 1996 (“the Constitution”), the withdrawal of money from the National Revenue Fund must be provided for in an Act of Parliament. This Act of Parliament, in terms of section 77(1)(d) read together with section 73(2)(a) of the Constitution, is a money bill that may be introduced only by the Cabinet member responsible for national financial matters.
- 1.5 In accordance with the prevailing legislative framework, the Bill gives effect to the recommendations of SCOPA that Parliament authorise the expenditure and approve a funding mechanism.
- 1.6 The Bill provides for the authorisation of national government unauthorised expenditure in the amount of R544 739 251.03, of which—
 - 1.6.1 R40 292 419.92, referred to in Schedule 1 of the Bill, is classified as unauthorised expenditure in terms of section 34(1)(a) of the PFMA, due to an overspending of the Defence and Military Veterans vote during the 2003/04 financial year. An additional amount is recommended for the vote, for approval as a direct charge against the National Revenue Fund to cover the overspending. On approval of the Schedule 1 expenditure, the amount will become an additional charge against the National Revenue Fund.
 - 1.6.2 R20 625 352.33, referred to in Schedule 2 of the Bill, is unauthorised in terms of section 34(1)(b) of the PFMA (expenditure unauthorised for another reason). These cases occurred from the 1998/99 to the 2003/04 financial years, and are unauthorised due to deviations from tender procedures or incurring of expenditure that was not in line with the purpose for which the funds had been earmarked or the function of the department. The Defence and Military Veterans vote surrendered R20 625 352.33 to the National Revenue Fund because of the unauthorised expenditure. Pending approval, the Schedule 2 monies will be refunded to the vote, as a direct charge against the National Revenue Fund, to enable it to clear these amounts from its unauthorised expenditure account.

- 1.6.3 R483 821 478.78 in unauthorised expenditure due to an overspending on the Correctional Services vote during the 2008/09 financial year, is listed in Schedule 3 and is dealt with in terms of section 34(2) of the PFMA. The expenditure will become a charge against the budget allocations of the Department of Correctional Services and will not be an additional charge against the National Revenue Fund. This payment must be effected prior to 1 April 2015.

2. SUMMARY OF BILL

The following is a brief summary of the Bill: Clause 1 provides for the interpretation of the Bill; Clause 2 provides for the approval of unauthorised expenditure that is set out in Schedules 1 to 3 of the Bill; Clause 3 provides for the recovery of unauthorised expenditure, and stipulates that the Bill does not detract from or limit any right or obligation to take appropriate steps to recover unauthorised expenditure from a responsible official or former official; and Clause 4 contains the short title.

3. ORGANISATIONS AND INSTITUTIONS CONSULTED

All affected departments participated in the meetings and hearings of the National Assembly's Committee on Public Accounts.

4. FINANCIAL IMPLICATIONS FOR THE STATE

The unauthorised expenditure relating to overspending of votes for which additional funds have been appropriated, will have financial implications for the National Revenue Fund. The Bill proposes an amount of R40 292 419.92 as a direct charge against the National Revenue Fund as an additional amount.

5. CONSTITUTIONAL IMPLICATIONS

The recommendations that are made in the Bill take into account sections 77 and 213 of the Constitution.

6. PARLIAMENTARY PROCEDURE

- 6.1 The State Law Advisers and the National Treasury are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 77 of the Constitution, since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.
- 6.2 The State Law Advisers are 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.