

PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NOTICE 58 OF 2022



EASTERN CAPE PROVINCIAL LEGISLATURE

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Date: 11 March 2022

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Ref: PROCLAMATION BILL

Proclamation 1 of 2022

by the
Speaker of the Eastern Cape Provincial Legislature

**COMMENCEMENT OF THE EASTERN CAPE MONEY BILLS AMENDMENT
PROCEDURE AND RELATED MATTERS ACT, 2020 (ACT NO. 6 OF 2020)**

Under section 17 of the Eastern Cape Money Bills Amendment Procedure and Related Matters Act, 2020 (Act No.6 of 2020), I hereby determine 01 April 2022 as the date on which the said Act shall come into operation.

Given under my Hand at Bhisho on this 11 day of March Two thousand and Twenty Two.

HON. HELEN SAULS-AUGUST (MPL)
SPEAKER: EC PROVINCIAL LEGISLATURE



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PROVINCE OF THE EASTERN CAPE

EASTERN CAPE MONEY BILLS AMENDMENT PROCEDURE AND RELATED MATTERS
ACT, 2020

(EASTERN CAPE)

ACT NO 6 OF 2020 (EC)

<p>BILL PROVINCE OF THE EASTERN CAPE Assented To in Terms of Section 121 R.W. Section 123, 124 And 127 OF Act 108 OF 1996</p> <p> Signature</p> <p>2 August 2021 Date</p> <p>Lubabalo Oscar Mabuyane Full Names</p> <p>TITLE PREMIER- ACTING PREMIER (Delete whichever is not applicable)</p> <p>(NOTE: ON THE DATE HEREOF, ENGLISH IS THE ONLY OFFICIAL LANGUAGE OF THE PROVINCE)</p>

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ACT

To provide for a procedure to amend money Bills before the Eastern Cape 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;

WHEREAS the Money Bills Amendment Procedure and Related Matters Act, 2009 provides for norms and standards for provincial legislatures;

AND WHEREAS the purpose of amending money Bills, is to ensure that the Provincial Budget is responsive to the needs of the people of the Eastern Cape;

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

1 Definitions

In this Act, unless the context indicates otherwise-

Budget Committee' means a Legislature Standing Committee established in terms of this Act responsible for amendments proposed on money Bills, matters of expenditure and other related matters;

'BRRRs' means Budget Review and Recommendation Reports;

'Constitution' means the Constitution of the Republic of South Africa, 1996;

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

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'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 a plenary sitting;

'Legislature' means the Eastern Cape Provincial Legislature;

'Medium Term Budget Policy Statement' means a provincial policy document which sets out funding priorities, reveals the intended spending plans of government for three years and which sets out the provincial policy framework for a specific financial year covering the period of the MTEF. This provincial statement is aligned with the national MTBPS tabled in terms of section 6 of the Money Bills Amendment Procedure and Related Matters Act, 2009;

'Medium Term Expenditure Framework' (MTEF) means a framework which details 3 -year rolling expenditure and revenue plans for national and provincial departments;

'MEC' means the Member of the Executive Council responsible for finance and provincial expenditure in the Province;

'MECs' means Members of the Executive Council appointed in terms of section 132(1) of the Constitution in the Province;

'MEMBER' means a member of the Legislature including the Members of the Executive Council in the Province;

'Money Bill' means a 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;

'Premier' means the head of the Executive Council elected in terms of Section 128 of the Constitution;

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'Province' means the Province of the Eastern Cape established by section 103 of the Constitution ;

'Provincial Appropriation Bill' means a money bill containing the annual budget of the Province, including the Budget Statements;

'Provincial Adjustments Appropriation Bill' means the Provincial adjustments appropriation bill referred to in section 31 of the Public Finance Management Act;

'Secretary to the Legislature' means the Secretary to the Legislature or any official designated by the Secretary in writing;

'Speaker' means Speaker of the Provincial Legislature or the person designated to act as Speaker;

'Standing rules' means the rules and orders of the Eastern Cape Provincial Legislature;

'Technical corrections' means minor, typographical mistakes.

'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 a provincial legislature, as may be appropriate, before it approves the relevant draft appropriation Act as such.

2 Objects of this Act

(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.

3 Application of this Act

This Act applies to all money Bills before the Provincial Legislature.

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

(1) The Budget Committee in the Legislature is hereby established.

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- (2) The Budget Committee consists of Members appointed by the Rules Committee proportional to their representation in the Legislature.
- (3) The Chairperson of the Portfolio Committee on Finance must *ex officio* be a Member of the Budget Committee.
- (4) Chairpersons of the legislature portfolio committees, who are not members of the Budget Committee, may participate in the Budget Committee, but have no voting rights.
- (5) The Rules Committee must appoint the Chairperson of the Committee, who must be appointed from the permanent Members of the Budget Committee.
- (6) The Budget Committee has the powers and functions conferred on it by the Constitution, this Act and the Standing Rules or a resolution of the House.

5 Functions

- (1) The Budget Committee must consider the 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 include considering and reporting on-
 - (a) the Division of Revenue Bill;
 - (b) the Provincial socio-economic outlook and fiscal policy;
 - (c) the Provincial Appropriation Bill and amendments thereto;
 - (d) actual expenditure published by the Provincial Treasury;
 - (e) actual revenue published by the Provincial Treasury;
 - (f) recommendations of the Financial and Fiscal Commission, on the national Division of Revenue budget, including those referred to in the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997);
 - (g) recommendations of the Financial and Fiscal Commission on the Eastern Cape Budget; and
 - (h) any other related matter set out in this Act.

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- (3) The Budget Committee must receive reports on budget from portfolio committees and must -
- (a) consider total aggregates of the budget;
 - (b) invite members of portfolio committees to attend the Budget Committee meetings when issues relating to their cluster are being considered;
 - (c) make recommendations to the House on the overall budget allocation, and
 - (d) publish these reports on the Eastern Cape Provincial Legislature website within 7 days of the House sitting.

6 Powers

1. The Budget Committee may determine its own-
 - (a) procedures; and
 - (b) annual programmes in accordance with the Standing Rules of the Legislature.
2. The Budget Committee must oversee the preparation of the plans and budget of the Provincial Legislature Budget Unit.
3. The Budget Committee must-
 - (a) consider Money Bills referred to it;
 - (b) investigate and report on issues that are referred to it or on its own initiative;
 - (c) hold public hearings, solicit comments from the public; and
 - (d) exercise any powers granted to it by the Constitution and the Standing Rules.

7 Procedure prior to introduction of the Provincial Appropriation Bill

- (1) The Legislature, through its committees, must annually assess the performance of each Provincial Department, and may do so with reference to the following:
 - (a) the medium-term estimates of expenditure of each Provincial Department, its strategic goals and measurable objectives, as tabled in the Legislature with the Provincial Appropriation Bill;
 - (b) prevailing strategic plans;
 - (c) annual performance plans and operational plans;

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- (d) the expenditure reports or statements relating to a vote appropriating funds for each department published by the Provincial Treasury;
 - (e) the financial statements and annual report of each Department;
 - (f) the reports of the Auditor General relating to each Department;
 - (g) the reports of the Standing Committee on Public Accounts;
 - (h) recommendations of the Financial and Fiscal Commission on the Eastern Cape budget; and
 - (i) any other information requested by or presented to the Legislature.
- (2) Committees must annually submit budgetary review and recommendation reports before adoption of the Appropriation Bill for tabling in the Legislature for each Department.
- (3) A budgetary review and recommendation report, which is derived from findings on the consideration of annual reports, half year financial oversight reports, site visit reports, Medium Term Budget Policy Statement report, Standing Committee on Public Accounts (SCOPA) findings and Auditor-General recommendations must-
 - (a) provide for an assessment of the Department's service delivery performance;
 - (b) provide for an assessment on the effectiveness and efficiency of the Department's use of available resources;
 - (c) include recommendations on the advance use of resources, and
 - (d) be published on the Legislature's website within 7 days of tabling in the Legislature.
- (4) Each Portfolio Committee must submit its report to the Budget Committee within 15 days of the tabling of the Medium Term Budget Policy Statement.
- (5) The Budget Committee must-
 - (a) scrutinize the BRR reports of the Portfolio committees; and
 - (b) within 15 days after receiving reports from portfolio committees submit its recommendations to the House.
- (6) Any budgetary review and recommendation report must, after the adoption of the report on the Medium Term Budget Policy Statement,

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be submitted to the MEC responsible for Finance and MEC responsible for the vote to which the report applies after its adoption by the Provincial Legislature.

- (7) Recommendations of the Financial and Fiscal Commission on the Eastern Cape budget must be submitted to the MEC responsible for Finance.

8 Medium Term Budget Policy Statement

- (1) At least three months prior to the introduction of the Provincial Appropriation Bill, the MEC responsible for Finance must submit to the Legislature a Medium-Term Budget Policy Statement, which must take cognisance of the national MTBPS.
- (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 financial 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 financial year in which the statement is tabled.
- (3) The Speaker must refer matters referred to in subsections (2) to the Budget Committee immediately after the submission of the Medium-Term Budget Policy Statement by the MEC responsible for Finance for consideration and reporting to the House
- (4) The Speaker must refer the House resolutions to the MEC responsible for Finance within seven days or as soon as reasonably possible thereafter.

9 Introduction of the Provincial Appropriation Bill

- (1) The MEC responsible for Finance must table the provincial Appropriation Bill in the Provincial Legislature as set out in terms of section 27(2) of the PFMA.
- (2) In tabling the provincial Appropriation Bill, the MEC responsible for Finance must also table proposals setting out the following-
 - (a) strategic goals;
 - (b) measurable outcomes;

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- (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 classification of items of expenditure.
- (3) Members of the Executive Council must table the updated annual performance plans and operational plans for their respective Departments, public entity or any other institutions, which must be referred to the relevant committee for consideration and reporting.
- (4) In addition to tabling the provincial Appropriation Bill as stipulated in subsection (1), the MEC responsible for Finance must table the following-
 - (a) a report to the Legislature at the time of the budget on Provincial Treasury's response to the recommendations contained in budgetary review and recommendation reports submitted by the Budget Committee of the Legislature in terms of section 7(6) of the Act;
 - (b) a report to the Legislature at the time of the budget on Provincial Treasury's response to the recommendations of the Financial and Fiscal Commission submitted by the Budget Committee of the Legislature in terms of section 7(7) of the Act;
 - (c) the proposed fiscal framework;
 - (d) the key economic assumptions underlying the fiscal framework over the medium-term expenditure framework;
 - (e) tax and other revenue proposals, including the contribution of the different revenue categories to Provincial revenue for the next three financial years;
 - (f) an estimate and breakdown of contingent liabilities for the next three financial years; and
 - (g) any other relevant information and information so requested by the House from time to time.

10 Passing the Provincial Appropriation Bill

- (1) The Provincial Appropriation Bill must be referred to the Budget Committee.
- (2) After consideration of individual Budget Votes by their respective Portfolio Committees, they must submit proposals on the amendment, if any, of the Provincial Appropriation Bill to the Budget Committee.
- (3) The Budget Committee must mediate between portfolio committees proposing conflicting amendments to the Provincial Appropriation Bill.

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- (4) Any amendments to the Appropriation Bill must be consistent with the adopted fiscal framework.
- (5) The Budget Committee must give the MEC responsible for Finance and any other Member of the Executive Council 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.
- (6) The Budget Committee must consider the response of the MEC responsible for Finance and report to the House within 7 days after the response by the MEC responsible for Finance.
- (7) A report of the Budget Committee to the House on Provincial Appropriations that proposes amendments to the main Provincial Appropriation Bill must, in respect of each amendment-
 - (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;
 - (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-
 - (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
 - (vi) any other relevant information submitted to the House or committee in terms of the standing rules or on request.
- (8) A report in terms of subsection (7) must include the responses of the MECs to any proposed amendments.
- (9) The Legislature must pass, with or without amendments, or reject the Provincial Appropriation Bill within four months after the start of the financial year to which it relates.

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11 Amending Revenue Bills and Revenue Proposals

- (1) In amending revenue Bills and revenue proposals the Provincial 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 adopted by Parliament;
 - (b) take into account the principles of equity, efficiency, certainty and ease of collection;
 - (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 national, provincial, regional and international tax trends; and
 - (e) consider the potential impact on development, investment, employment and economic growth.

12 Public Participation

- (1) The Budget Committee when considering the economic and budgetary policies, Provincial appropriation Bill and other money Bills must seek representations from the public and such recommendations shall be taken into account when the Budget Committee makes recommendations to the House.

13 Provincial Adjustments Appropriation Bill

- (1) The MEC responsible for Finance must introduce the Provincial Adjustment Appropriation Bill in the House as set out in terms of section 31 of the PFMA.
- (2) The Speaker must refer the Provincial Adjustment Appropriation Bill to the Budget Committee.
- (3) The Budget Committee must report to the House on its consideration of 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 relevant report adopted by the House.

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- (5) The Budget Committee must mediate between portfolio committees proposing conflicting amendments to the Provincial Adjustment Appropriation Bill.
- (6) The MEC responsible for Finance must be given at least 5 working days to respond to any proposed amendments to the Provincial Adjustment Appropriation Bill by the Budget Committee.
- (7) The Budget Committee must report to the House within 7 working days after the response by the MEC responsible for Finance or any such other time as determined by the programming committee of the Legislature.

14 Amendments proposed by the MEC

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

15 Provincial Legislature Budget Unit

- (1) The Legislature hereby establishes the Provincial Legislature Budget Unit, the main objective of which is to provide non-partisan, high-quality and independent technical analysis, objective and professional advice to the Legislature on matters related to the provincial budget and other money Bills.
- (2) The core function of the Provincial Legislature Budget Unit is to support the implementation of this Act by undertaking research and analysis for the Budget Committee referred to in section 4, including-
 - (a) annually providing reviews and analysis of the documentation tabled in the Provincial Legislature by the MEC responsible for Finance in terms of this Act;
 - (b) monitoring and synthesizing matters and reports tabled and adopted in the House with budgetary implications, with particular emphasis on reports by other committees;
 - (c) keeping abreast of policy debates and developments in key expenditure and revenue areas;
 - (d) monitoring and reporting on potential unfunded mandates arising out of legislative, policy or budgetary proposals and general budget execution;
 - (e) cost the impact of proposed and approved legislative amendments and investigate medium term patterns; and

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- (f) undertaking any other work deemed necessary to support the implementation of this Act.
- (3) The Provincial Legislature Budget Unit must annually receive a budget from the Legislature in line with the plans as submitted.
- (4) The Provincial Legislature Budget Unit may undertake research on request by the House, other committees or members of Legislature on matters related to the budget and other money Bills, subject to capacity.
- (5) There must be a co-operative working relationship between the Provincial Legislature Budget Unit and other research structures within the Legislature.
- (6) The Provincial Legislature Budget Unit shall be headed by a General Manager.
- (7) The Budget Committee must recommend to the Speaker a person with the requisite experience, qualifications and leadership skills to manage the Legislature Budget Unit in line with the functions as set out in sections 15(2) and (3) for appointment through the Office of the Secretary. The appointment must be for a period not longer than 5 years.
- (8) The Budget Committee must recommend suitably qualified persons as employees of the Provincial Legislature Budget Unit in accordance with an organisational organogram approved by the Speaker of the Legislature.
- (9) In carrying out the duties and functions of the Provincial Legislature Budget Unit, the services of experts or consultants may be procured.
- (10) The General Manager must report to the Legislature any inappropriate political or executive interference which has the potential to prevent the office from providing independent, objective and professional advice on matters related to money Bills.
- (11) The Provincial Legislature Budget Unit may obtain information it requires for the performance of its functions from any organ of state or person the Provincial Legislature Budget Unit considers appropriate.
- (12) Any information which the Provincial Legislature Budget Unit requires for the performance of its functions and which is available to an organ of state or to any institution that derives any funds from the National Revenue Fund, a Provincial Revenue Fund or a municipality must, on request be supplied timeously and free of charge by that organ of state or institution to the Provincial Legislature Budget Unit, unless they are prohibited by law from doing so.

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16. TRANSITIONAL ARRANGEMENTS.

(1) The Secretary to the Legislature must second Legislature officials to the Budget Committee for a period of not more than four months after its establishment, in order to:

- (a) provide administrative support to the Committee;
- (b) acquaint the Committee with the contents of the Bill; and
- (c) serve as liaison between the Committee and the Legislature.

17. Short title and commencement

This Act is called the Eastern Cape Money Bills Amendment Procedure and Related Matters Act, 2020 and comes into operation on a date fixed by the Speaker by proclamation in the *Provincial Gazette*.

