

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 31—2015]

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BILL

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

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. (1) The unauthorised expenditure referred to in Schedule 1 to this Act in the amount of R46 667 900.42, and described in the reports of the Committee on Public Accounts of the National Assembly identified in the second column of that Schedule, is authorised as a direct 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

(2) The unauthorised expenditure referred to in Schedule 2 to this Act in the amount of R63 547 218.15, and described in the reports of the Committee on Public Accounts of the National Assembly identified in the second column of that Schedule, is authorised and previously surrendered funds are reallocated to the votes in terms of section 34(1)(b) of the Public Finance Management Act, 1999. 15

Recovery of unauthorised expenditure

3. This Act does not detract from or limit any power or duty to take appropriate steps to recover unauthorised expenditure from a responsible official or former official. 20

Short title

4. This Act is called the Finance Act, 2015.

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	Committee on Public Accounts Report	Financial Year	Vote Title
(R) Column 1	Reference Column 2	Column 3	Column 4
14,510,746.35	COPA 2015 1st report	2008/09	The Presidency
28,428,306.73	1st report	2010/11	The Presidency
3,728,847.34	4th report	2010/11	Women
46,667,900.42			

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	Committee on Public Accounts Report	Financial Year	Vote Title
(R) Column 1	Reference Column 2	Column 3	Column 4
26,167,712.61	COPA 2015 2nd report	2007/08	Social Development
37,379,505.54	3rd report	2004/05	Trade and Industry
63,547,218.15			

MEMORANDUM ON THE OBJECTS OF THE FINANCE BILL, 2015

1. BACKGROUND TO THE BILL

The Bill provides for the authorisation of national government unauthorised expenditure as a direct charge against the National Revenue Fund. The expenditure arises from the 2004/05, 2007/08, 2008/09 and 2010/11 financial years. Forty two percent of the funds represent an additional amount to be allocated to votes. Unauthorised expenditure was incurred by The Presidency, the Department of Women, Children and People with Disabilities, the Department of Social Development and the Department of Trade and Industry in different years.

2. OBJECTS OF BILL

2.1 The Bill is aimed at implementing the recommendations recorded in the first, second, third and fourth reports of the National Assembly's Committee on Public Accounts, dated 3 February 2015, that Parliament authorise the unauthorised expenditure and approve a funding mechanism. The recommendations were adopted by the National Assembly on 23 June 2015.

2.2 The Bill follows the procedure for authorisation of unauthorised expenditure as outlined in section 34(1)(a) and (b) of the Public Finance Management Act, 1999 ("the PFMA"). In terms of section 34(1) of the PFMA unauthorised expenditure does not become a charge against a Revenue Fund except when—

(a) the expenditure is an overspending of a vote and Parliament or a provincial legislature, as may be appropriate, 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 or a provincial legislature, as may be appropriate, authorises the expenditure as a direct charge against the relevant Revenue Fund.

2.3 Section 213(2)(b) of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), provides that the withdrawal of money from the National Revenue Fund, must be provided for in an Act of Parliament. In accordance with this, the Bill provides for the approval and authorisation of unauthorised expenditure as a direct charge against the National Revenue Fund. Expenditure was incurred due to the overspending of vote appropriations and of main divisions within the vote. Only the former represents an additional amount of funds allocated to votes.

3. SUMMARY OF BILL

3.1 The Bill provides for the authorisation of unauthorised expenditure in the amount of R110 215 118.57, of which—

3.1.1 The total amount of R46 667 900.42 referred to in Schedule 1 to the Bill, is classified as unauthorised expenditure in terms of section 34(1)(a) of the PFMA due to the overspending of the vote of—

(a) The Presidency (R14 510 746.35 and R28 428 306.73) during the 2008/09 and 2010/11 financial years; and

(b) Women, Children and People with Disabilities (R3 728 847.34) during the 2010/11 financial year.

3.1.1.1 The overspending of the vote of The Presidency by R14 510 746.35 during the 2008/09 financial year was due to expenditure in respect of a National orders ceremony; legal fees; travel and subsistence costs and a leave gratuity. The

overspending of R28 428 306.73 during the 2010/11 financial year was due to expenditure for the creation of additional Ministries for National Planning, and Performance, Monitoring and Evaluation; legal fees; travel and subsistence; the Presidential hotline and leave gratuities.

3.1.1.2 The overspending of the vote of Women, Children and People with Disabilities by R3 728 847.34 during the 2010/11 financial year was mainly due to operational expenditure that were not initially provided for; the hosting of National Days and travel and subsistence.

3.1.1.3 The respective amounts listed in Schedule 1 to the Bill will become a direct charge against the National Revenue Fund when allocated to the votes. Following the 2014 National Macro Organisation of the State, the vote of Women, Children and People with Disabilities ceased to exist during the 2014/15 financial year and the unauthorised expenditure became a liability of the new vote of Women. Funds approved to cover the unauthorised expenditure in respect of the vote of Women, Children and People with Disabilities will therefore be allocated to the vote of Women.

3.1.2 The amount of R63 547 218.15 referred to in Schedule 2 to the Bill, is unauthorised in terms of section 34(1)(b) of the PFMA due to an overspending of main divisions (*programmes*) in the vote of Trade and Industry (R37 379 505.54) and the vote of Social Development (R26 167 712.61), during the 2004/05 and 2007/08 financial years, respectively.

3.1.2.1 The overspending of main divisions by R37 379 505.54 occurred in the vote of Trade and Industry during the 2004/05 financial year. The overspending for Programme 6: Trade and Investment South Africa is mainly due to irrecoverable General Export Incentive Scheme debt of R31 075 062.53. The overspending for Programme 2: International Trade and Economic Development is mainly due to a legal award of R6 154 213.30 for the non-detection and non-prevention of the destruction of the property at Pumlani Lodge.

3.1.2.2 The overspending of Programme 2: Comprehensive Social Security of the vote of Social Development by R26 167 712.61 was due to expenditure on social assistance grants. The main cause of the overspending was an increase in the number of Child Support Grant beneficiaries.

3.1.2.3 The respective amounts listed in Schedule 2 to the Bill, if previously surrendered by the votes to the National Revenue Fund, will be refunded to the votes, as a direct charge against the National Revenue Fund. The unauthorised expenditure accounts will then be cleared of these amounts.

4. SUMMARY OF STRUCTURE OF BILL

- 4.1 Clause 1 provides for the interpretation of certain words and expressions in the Bill.
- 4.2 Clause 2 provides for the approval of unauthorised expenditure that is set out in Schedules 1 and 2 to the Bill.
- 4.3 Clause 3 deals with the recovery of unauthorised expenditure, and stipulates that the Bill does not detract from or limit any power or duty to take

appropriate steps to recover unauthorised expenditure from a responsible official or former official.

4.4 Clause 4 contains the short title of the Bill.

4.5 Schedules 1 and 2 set out the affected votes and descriptions of unauthorised expenditure.

5. ORGANISATIONS AND INSTITUTIONS CONSULTED

All departments that incurred unauthorised expenditure reflected in Schedule 1 and 2 to the Bill participated in the hearings of the Committee on Public Accounts of the National Assembly.

6. FINANCIAL IMPLICATIONS TO THE STATE

The Bill proposes a direct charge against the National Revenue Fund, of R46 667 900.42 as an additional amount to be allocated to votes that previously overspent their annual appropriations.

7. CONSTITUTIONAL IMPLICATIONS

The Bill accords with section 213(2)(b) of the Constitution of the Republic of South Africa, 1996, which stipulates that money may be withdrawn from the National Revenue Fund as a direct charge against that Fund when it is provided for in the Constitution or an Act of Parliament.

8. PARLIAMENTARY PROCEDURE

8.1 The State Law Advisers and the National Treasury are of the opinion that the Bill is a money Bill as envisaged in section 77(1)(d) of the Constitution of the Republic of South Africa, 1996, since it proposes to authorise direct charges against the National Revenue Fund. The Bill must therefore be dealt with in accordance with the procedure prescribed in section 75 of the Constitution.

8.2 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.