**7. REPORT OF THE SELECT COMMITTEE ON APPROPRIATIONS ON THE PUBLIC AUDIT EXCESS FEE BILL [B7-2019] (NATIONAL ASSEMBLY – SECTION 77), DATED 27 MARCH 2019**

The Select Committee on Appropriations, having considered the ***Public Audit Excess Fee Bill [B7 – 2019]***, referred to it on 19 March 2019 and tagged as a section 77 Bill, reports as follows:

1. **Introduction**

Section 213(2) of the Constitution of the Republic of South Africa, provides that money may be withdrawn from the National Revenue Fund (NRF) only in terms of an appropriation by an Act of Parliament. The *Public Audit Excess Fee Bill*, hereinafter referred as the Bill, sets out to provide that the specified excess of the audit fee of certain categories of organs of state, payable to the Auditor-General, as envisaged in the Public Audit Act, No. 25 of 2004, is, if the stated conditions are complied with, a direct charge against the NRF; and to provide for matters connected therewith. In executing this mandate, the Select Committee on Appropriations, hereinafter referred to as the Committee, was established in terms of section 4(3) of the Money Bills Amendment Procedure and Related Matters Amendment Act, No. 13 of 2018, and herein after referred to as the Money Bills Act.

In line with section 13(2) of the Money Bills Act, the Committee has a responsibility to hold public hearings on any money bills and and report to the National Council of Provinces. To this end, advertisements were published in national and regional newspapers from 1 to 8 March 2019, inviting general public inputs. No submissions were received on the Bill, therefore the public hearings that were scheduled for 13 March 2019 had not taken place. National Treasury briefed the Committee on the Bill in its entirety on 7 March 2019.

1. **Background**

National Treasury reported that the proposed direct charge for the audit fees in excess of 1 percent against the NRF was a result of a joint proposal from the Auditor-General (AG) and National Treasury to the Select Committee on the Auditor-General (SCOAG) during the deliberations on the 2018 Public Audit Amendment Bill. The 2018 Public Audit Amendment Bill was initiated by SCOAG and passed by Parliament in 2018 where after it was assented to by the President.

The audit fees are used to cover the AG’s expenses, finance the fixed assets and generate a surplus, which ranges from 1 to 4 per cent for working capital and general reserve requirements. The said fees are based on the hours worked on auditee projects (audits) based upon published tariff rates per salary level of all audit staff. Unpaid fees therefore deprive the AG of the needed cash flow to support the execution of its constitutional mandate. However, National Treasury reported that 10 percent of the AG’s client base falls under the financially distressed category comprising a substantial amount of revenue. These auditees are predominantly low capacity municipalities and small auditees such as museums, trusts and boards.

National Treasury further submitted that currently section 23(6) of the Public Audit Act provides that if the audit fee is in excess of 1 percent of the current and capital expenditure of the auditee, then the excess must be defrayed from National Treasury’s budget vote if it is of the view that the auditee has financial difficulty to pay the excess. It was reported that historically, the excess audit fees to be paid from National Treasury’s budget vote, was substantially higher than the amount appropriated and thus resulted in shortfalls. Table 1 below provides an overview of the shortfalls between 2014/15 and 2018/19.

**Table 1: Overview of the shortfalls between 2014/15 and 2018/19.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Financial year** | **Amount claimed by AG**  **(R’million)** | **Amount appropriated by NT**  **(R’million)** | **Additional funds made available by NT**  **(R’million)** | **Shortfalls**  **(R’million)** |
| 2014/15 | 127.02 | 41.86 | 20.00 | (65.17) |
| 2015/16 | 154.86 | 44.08 | - | (110.79) |
| 2016/17 | 169.33 | 46.28 | 35.00 | (88.05) |
| 2017/18 | 132.67 | 46.28 | 150.00 | (86.39) |
| 2018/19 | 139.29 | 47.74 | - | (91.55) |
| **Total** | **723.17** | **226.24** | **205.00** | **(441.95)** |

*National Treasury (2019)*

National Treasury submitted that the unpredictability of the total amount of excess audit fees made it difficult to estimate the required funding accurately. Furthermore, it needed to fund its own operations and also other competing priorities thus putting the financial viability of the AG at risk and ultimately threatening its constitutional independence. The direct charge against the NRF would mean that the payment to the AG would not form part of the normal appropriated funds of National Treasury but would be made by the Office of the Accountant-General directly from the NRF.

In conclusion, National Treasury reported that should the Bill not become law, the relevant provisions of the Public Audit Amendment Act of 2018, in which the principle of a direct charge is captured, will not commence and those provisions will have to be repealed or amended by Parliament.

1. **Provisions of the 2019 *Public Audit Excess Fee Bill***

Clause 1 provides that the excess of any audit fee, envisaged in section 23(6) of the Public Audit Act, 2004 (Act No. 25 of 2004), as amended by section 10 of the Public Audit Amendment Act, 2018 (Act No. 5 of 2018), is a direct charge against the National Revenue Fund.

Clause 2 contains the short title of the Bill and stipulates that it takes effect on a date to be determined by the Minister of Finance by notice in the Gazette.

1. **Committee Recommendation on the Bill**

The Select Committee on Appropriations, having considered the ***Public Audit Excess Fee Bill* [B7 – 2019],** referred to it, and classified by the Joint Tagging Mechanism as a section 77 Bill, reports that it has agreed to the Bill without amendments.

The Democratic Alliance objected to the Bill.

Report to be considered.