2019 DIVISION OF REVENUE Amendment BILL

Responses to questions raised in the Joint Meeting of the Standing and Select Committees on Appropriations on 14 November

NATIONAL TREASURY

The Standing and Select Committees on Appropriations met in Cape Town on 14 November 2019 for a briefing on the Division of Revenue Bill, 2019 ("the Bill"). There were multiple questions from members following the briefing by National Treasury officials and there was not time in the meeting for these to be responded to. As a result, a written input was requested.

In this response document questions on similar issues have been grouped together.

Why are the changes to the Municipal Infrastructure Grant MIG) shown in the Bill not mentioned in the presentation?

The changes to the MIG allocations shown on page 49 of the Bill are corrections to gazetted allocations. They do not change the amounts for the MIG allocated in the schedules of the Division of Revenue Act, 2019. Section 15(2) of the Division of Revenue Act, 2019, allows National Treasury to make corrections in errors to allocations, after following a consultation process set out in that section of the Act. This correction does not have to be shown in the Division of Revenue Amendment Bill, but for completeness and to further enhance transparency, the change is shown here and the reasons for it are described in part 3 of the explanatory memorandum to the Bill, as follows:

> *"To correct allocations for ring-fenced sport projects in the municipal infrastructure grant, R3.6 million is proposed to be shifted to Prince Albert Local Municipality in Western Cape made up of R1.6 million and R2 million respectively from Emthanjeni and Magareng Local Municipalities in the Northern Cape. The amounts for each project are shown correctly in the gazetted list of the municipal infrastructure grant ring-fenced funding for sport infrastructure. However, the allocations were not captured correctly in the municipal infrastructure grant allocations, necessitating this correction. This correction will ensure that sufficient funds are made available to complete planned sport infrastructure projects in all three affected municipalities."*

What are the provinces impacted by changes to health conditional grant allocations?

The amount changed for each province's allocations for the direct conditional grants for health is shown in Schedule 5, Part A of the Bill. The numbers are repeated below for ease of reference.

Table 1: Change in allocations per province for direct health conditional grants

Name of allocation	Province	Column A		
		2019/20 Main Allocation	Adjustment	2019/20 Adjusted Allocation
(c) Human Papillomavirus Vaccine Grant	Eastern Cape	35 345	(2 940)	32 405
	Free State	12 258	(3 134)	9 124
	Gauteng	28 841	(9 116)	19 725
	KwaZulu-Natal	47 495	(15 192)	32 303
	Limpopo	29 009	(7 417)	21 592
	Mpumalanga	18 654	(6 076)	12 578
	Northern Cape	4 894	(1 251)	3 643
	North West	14 007	(3 581)	10 426
	Western Cape	20 697	(5 293)	15 404
	Unallocated	-	-	-
	TOTAL	**211 200**	**(54 000)**	**157 200**
(d) Human Resources Capacitation Grant	Eastern Cape	58 253	37 155	95 408
	Free State	28 188	14 222	42 410
	Gauteng	135 235	88 057	223 292
	KwaZulu-Natal	122 316	69 414	191 730
	Limpopo	43 258	31 289	74 547
	Mpumalanga	41 562	18 681	60 243
	Northern Cape	11 606	9 825	21 431
	North West	29 994	5 190	35 184
	Western Cape	135 284	26 167	161 451
	Unallocated			
	TOTAL	**605 696**	**300 000**	**905 696**
(e) National Health Insurance Grant	Eastern Cape		45 333	45 333
	Free State		21 530	21 530
	Gauteng		53 758	53 758
	KwaZulu-Natal		55 376	55 376
	Limpopo		32 115	32 115
	Mpumalanga		21 136	21 136
	Northern Cape		19 306	19 306
	North West		21 224	21 224
	Western Cape		19 510	19 510
	Unallocated			
	TOTAL		**289 288**	**289 288**

How is the allocation for each province affected by the reductions to indirect conditional grants?

The changes per province for indirect allocations are shown in the Appendices to the Bill (pages 57 – 62). These changes will be gazette after the Bill is enacted.

As these are indirect grant allocations, funds are not transferred to provinces, but are spent by national departments on behalf of the provinces.

The following changes are made to the NHI Indirect Grant allocation per province (part of these reductions reflects the R289.3 million taken out of the indirect grant and allocated through the new direct National Health Insurance Grant, as shown in table 1, above).

Table 2: Changes in NHI Indirect Grant allocations

Province /Components	*2019/20 Main Allocation (R'000)*	*Adjustment (R'000)*	*2019/20 Adjusted Allocation (R'000)*
National Health Insurance Indirect Grant			
Eastern Cape	244 190	(26 629)	217 561
Free State	299 697	(31 773)	267 924
Gauteng	102 250	(54 351)	47 899
KwaZulu-Natal	48 444	(30 444)	18 000
Limpopo	521 750	83 939	605 689
Mpumalanga	94 361	(9 723)	84 638
Northern Cape	8 861	(4 861)	4 000
North West	9 453	(9 453)	
Western Cape	9 507	(9 507)	
Unallocated	1 195 186	(532 186)	663 000
Total	**2 533 699**	**(624 988)**	**1 908 711**

Table 3: Changes to School Infrastructure Backlog Grant allocations

Province	*2019/20 Main Allocation (R'000)*	*Adjustment (R'000)*	*2019/20 Adjusted Allocation (R'000)*
Schools Infrastructure Backlogs Grant			
Eastern Cape	1 362 327		1 362 327
Free State	77 466		77 466
Gauteng			
KwaZulu-Natal	245 000		245 000
Limpopo	135 689		135 689
Mpumalanga	21 000	(21 000)	
Northern Cape			
North West	28 000	(19 000)	9 000
Western Cape			
Unallocated	157 566		157 566
Total	**2 027 048**	**(40 000)**	**1 987 048**

Impact of changes to indirect grants

These reductions were made after consulting departments on whether they were likely to spend their full allocations by the end of the financial year. Rather than leave departments with their full allocations, knowing that the full amounts are unlikely to be spent, reductions have been implemented in the adjustment budget. This means that National Treasury will not have to borrow funds to finance this planned spending, when we know that these funds are likely to go unspent. As a result, government will not have to incur the interest payments on this unnecessary borrowing.

As these reductions are made as a result of projects that were already delayed, there is little impact as a result of making the reductions. However, the original delays in the projects (that would have resulted in underspending if these reductions were not made), will delay the delivery of some services.

Most of the reductions in the NHI Indirect Grant come from funds that had not yet been earmarked for projects in particular provinces. This should have no long-term impact on the pace of roll-out of NHI. The reductions in the School Infrastructure Backlogs Grant come from delayed projects in two provinces (Mpumalanga and North West). As these programmes are managed by the national Departments of Health and Basic Education, further questions on the detail of project implementation should be addressed to those departments.

The change to the Ilima/Letsema Grant will have no impact on service delivery as it is only a change to the flow of funds for paying for the survey that has been commissioned. The same planned work will be completed, but it will now be paid for by the national department rather than by 9 provinces.

Are indirect grants allocated because a province or municipality cannot perform?

In some cases, an allocation is made through an indirect grant because the province or municipality responsible for a function is not able to implement a project itself. In this way indirect grants can be a response to capacity constraints. However, in indirect grants are also allocated for other reasons, for example the NHI Indirect Grant is primarily used for the national department to pilot new approaches to delivering services, and the Integrated National Electrification Programme Grant has an indirect component because Eskom has the electricity reticulation license in some areas (so municipalities cannot install electricity infrastructure there).

Use of the word "savings" to describe reductions

National Treasury notes the committees' concerns regarding the use of the word "savings" to describe reductions due to projected underspending on allocations. We will endeavor not to use this word in relation to reductions of this type in future presentations on the division of revenue.

Consequences for non-performance

Several members asked about the consequences for non-performance and underspending.

It is important to first establish where accountability lies, so that consequences can be appropriately targeted. Within the context of the Division of Revenue Act, accountability for the spending of conditional grant funds rests with the receiving officer of the grant (this is the accounting officer of the province or municipality that receives the grant). Sections 11 and 12 of the Act set out these responsibilities in detail, including the responsibility to comply with grant conditions, to report on performance and to evaluate the performance of programmes partially or fully funded through the grant.

It is the responsibility of the transferring officer (the accounting officer of the national department that transfers the grant funds) to monitor the performance of the grant, based on the reports

received. Sections 9 and 10 of the Act set out the responsibilities of transferring officers. National Treasury is responsible for monitoring the financial performance of the grant. National Treasury's responsibilities are set out in section 31 of the Act, as well as specific other duties being prescribed throughout the Act.

There are several in-year consequences that can be applied to address poor performance. If a receiving officer fails to comply with a provision of the Act (including conditions prescribed in the grant frameworks) or is anticipated to be likely to under-spend, then the transferring officer can withhold transfer of funds in terms of section 18 of the Act. If the problem is not resolved, the transferring officer can request National Treasury to stop all transfers for that grant to the affected province or municipality in terms of section 19 and reallocate them to another province/municipality in terms of section 20.

Rectifying systems and disciplining the personnel who may be responsible for performance failures is the responsibility of the department or municipality that they are employed by.

In some cases, non-performance in one year can result in consequences for future allocations. Some grants have performance incentive components that reward good performance, so receiving officers that perform poorly will receive lower allocations in future. However, there is a trade-off between performance-based allocations and equity, and because of the importance of the functions funded through the division of revenue, allocations are heavily weighted in favour of ensuring equity. As a result, performance incentives account for a small share of total allocations.

What happens with cases of fruitless and wasteful expenditure?

Section 38 of the Public Finance Management Act (PFMA) places the responsibility to prevent unauthorised, irregular and fruitless and wasteful expenditure on the accounting officer of a department (a similar section exists for entities in S51). In terms of section 81 of the PFMA, a breach of section 38, amongst others, constitutes financial misconduct. Treasury regulation 4 puts the responsibility on the accounting officer to investigate the alleged financial misconduct. Where the accounting officer is alleged to have committed financial misconduct, the responsibility lies with the executive authority to investigate. The only powers National Treasury has in relation to this is to say who can investigate and how the investigation should be performed.

Disaster funding for drought

Section 56(2)(a) of the Disaster Management Act (Act 57 of 2002) says that when a disaster occurs the principles that apply include, "National, provincial and local organs of state may financially contribute to response efforts and post-disaster recovery and rehabilitation." The affected province and municipalities should therefore be expected to make a contribution from their own budgets. This is happening already, with provinces and municipalities amending their spending plans to prioritize responding to the drought.

Funding to respond to declared disasters is available from several sources. At present, the National Treasury is only aware of a provincial disaster as a result of drough conditions having been declared in one province (the Eastern Cape).

Disaster relief funds can be applied for from the Provincial Disaster Relief Grant and the Municipal Disaster Relief Grant. These grants are allocated a combined total of R466.4 million in 2019/20. Applications for funding from these grants need to be submitted to the National Disaster Management Centre, who assess the applications and recommend the amount of funding to be released. These grants are provided for in Schedule 7 of the Division of Revenue Act, which provides for the immediate release of disaster relief funds. The provisions allowing for the rapid release of these funds are set out in section 26(3) of the Division of Revenue Act, and the frameworks setting out the grant rules and application process can be found on pages 149 and 207 of the Division of Revenue Bill, 2019.

Funds are also available for the provision of emergency shelter and repair of housing damaged by disasters through provincial and municipal Emergency Housing Grants that are administered by the national Department of Human Settlements. These grants provide for the immediate release of funds to assist in the aftermath of an emergency, for example to ensure people have safe shelter following severe flooding or extreme weather events that damage housing.

Funds from other conditional grants to provinces and municipalities may also be reallocated to pay for the alleviation of the impact of a declared disaster. Section 20(6) of the Division of Revenue Act provides for such a reallocation, if it is requested by both the department that administers that conditional grant and the National Disaster Management Centre.

Following a disaster, the repair and rebuilding of damaged infrastructure is typically funded through ring-fenced allocations in the next Budget or Adjustment Budget. While the funding sources outlined above emphasise making funding available rapidly to address the immediate impacts of a disaster, it typically takes longer to assess and plan for the rebuilding or repair of damaged infrastructure. Rebuilt infrastructure typically has to be redesigned so that it will not be vulnerable to damage in a similar disaster in future. All disaster recovery requests are assessed by the National Disaster Management Centre and they then recommend the amounts to be funded to the National Treasury. Funds can be ring-fenced within an existing budget or conditional grant (for example road repair projects in provinces are typically funded through ring-fenced allocations within the Provincial Roads Maintenance Grant) or through a separate disaster recovery grant.

Funding for the remediation of pollution in the Vaal River

This project seeks to address the serious pollution challenges in the Vaal River system that pose a risk to public and environmental health. These problems are primarily caused by dysfunctional water treatment works in the Emfuleni Local Municipality. The scope of the intervention is to refurbish the three existing waste water treatment works and to optimise the operation of 37 critical pump station by repairing and unblocking mains of 9 pump stations and replacing the remaining twenty-eight pump stations that have reached the end of their useful life and to ensure continuity in their operations and maintenance.

The South African National Defence Force (SANDF) was deployed to assist with the intervention in November 2018. The SANDF is safeguarding the aforementioned infrastructure from

vandalism. Part of the funding from the roll-over of funds contained in the Bill will be used to pay for the costs incurred by the SANDF.

Progress is being made on the intervention, and five pump stations have been optimised and twenty-four manholes have been unblocked. In the Sebokeng Waste Water Treatment Works, the primary sedimentation tanks have been desludged and repaired but work at Leeuwkuil and, Rietspruit plants and the bulk and rising mains have not yet commenced. ERWAT, a specialist publicly-owned waste water company has been appointed in August 2019 for the implementation of major capital works.

The 2019 Medium Term Budget Policy Statement announced that additional funding will be allocated for the completion of this work in 2020/21. Details will be contained in the budget tabled in February 2020.

Funds have been prioritized for this project as it has been highlighted as a national priority. However, it is acknowledged that there are many other sites with problematic sanitation infrastructure, including others in the Vaal river catchment area. A nation-wide approach is needed to address these problems. It also highlights the importance of maintaining infrastructure. The problems in the Vaal resulted from years of neglected maintenance and under-investment in operations (despite the municipality collecting revenue from the sanitation service). Municipalities must be held accountable for investing timeously in maintenance of their assets, as South Africa cannot afford to repair and rebuild infrastructure that is not maintained.

The need to examine the governance framework for roads

The national Department of Transport is aware of problems in the classification of roads between the three spheres of government and are taking steps to address challenges in the classification of roads.

Update on improvements to the Moloto Corridor

The Department of Transport has informed National Treasury that Gauteng has agreed to transfer their section of the road to SANRAL for capacity and safety upgrades. Mpumalanga and Limpopo transferred the section of the R573 in their provinces a few years ago. Funds are earmarked in the Department of Transport budget for transfer to SANRAL for the necessary upgrades. This will significantly improve safety on this road. Completion of these road improvements is the fastest and most cost-effective way to improve safety and save lives along this transport corridor.

Concerns about the “monopoly” position of certain bus operators

The persistent extension of bus contracts in Gauteng has been deemed irregular by the Auditor-General. In terms of the National Land Transport Act, contracts can be negotiated in the first phase and then tendered in subsequent phases. The National Land Transport Act also makes provision for the devolution of services to municipalities if the service falls within an Integrated Public Transport Network. For the current contracting arrangement to be changed, these contracts would have to be put out to tender. This will also require provinces to reexamine demand for services and realign and rationalize the routes provided.

How long will the SAFE schools initiative take to eradicate unsafe sanitation?

Government has allocated a total of R3.4 billion to this initiative over the 2019 MTEF. The private sector has also pledged more than R250 million. The Department of Basic Education have identified clear timeframes and delivery models. The department is confident that within the next three years, they would have eradicated the remaining 3898 pit-latrines in schools.

Why did only Limpopo receive funding for medical equipment?

This Bill only shows amendments to the main act, so it only highlights areas where there have been changes. The full range of spending across all 9 provinces is shown in the main Division of Revenue Act. In the case of medical equipment, this is a roll-over for funds that were not spent in 2018/19 on equipment needed for the Limpopo Academic Hospital.

What about older girls with Human papillomavirus (HPV)?

The HPV vaccination programme was only introduced quite recently, as a new programme to improve public health. As a result, HPV prevalence will be higher in age cohorts that were in grades 4 and 5 prior to the introduction of this programme.

Billing and municipal revenue collection

National Treasury shares to concerns raised by the Committees on the non-payment for services. Local government services will only be sustainable if those that can afford to do so pay for the full cost of the services they receive. A minimum amount of free basic services is provided for households that cannot afford to pay. Improving payment levels is difficult, but is a core part of National Treasury's strategy to address municipal financial performance failures. The 2020 budget will include the announcement of initiatives to promote improvements in payment for services.

Concerns about the size of local government's allocation

The allocation of funds between national, provincial and local government in the Division of Revenue is informed primarily by the functions performed by each sphere. The national and provincial spheres receive larger allocations because they deliver more costly functions, and unlike municipalities they do not collect significant revenues that offset the costs of their services. The largest services provided by municipalities are electricity reticulation, water, sanitation and refuse removal. All of these are services that all businesses and non-poor households should be paying for. In addition, municipalities also collect property rates, which is an important wealth tax paid by property owners that is worth over R60 billion per year and is retained by municipalities and not shared with national government or provinces. If all of the revenues collected by each sphere are accounted for are taken into account, then local government's share of total government revenue raised is about 25 per cent.

The intergovernmental fiscal system acknowledges that the revenue base is very unequally distributed across municipalities, with high revenue potential in areas with strong economic activity, and much, much weaker revenue potential in most rural areas. This is why the Division

of Revenue is structured to allocate more than twice as much per household to rural municipalities than it allocates to urban municipalities through the local government equitable share. These allocations are calculated to fund the cost of delivering a package of free basic services to all households with an income of less than two old age pensions.

Concerns with how local government equitable share funds are used

Equitable share transfers are unconditional (this is established in the Constitution), as a result we cannot set conditions on equitable share transfers. However, municipal budgets are adopted by elected councils, following a consultation process with communities. Municipal councils must be held accountable for the spending priorities chosen in their budgets.

Concern about transfers between district and local municipalities

Concerns were raised about funding not being transferred from a district authorised for a particular function to the local municipality actually performing that function. Section 29 of the Division of Revenue Act stipulates requirements for district and local municipalities to agree on transfers in cases like this and section 29(6) empowers National Treasury to withhold or stop transfers if these provisions are not complied with. The question alluded to a particular case in which this has not been done. As this question appears to be applicable to this particular case, it would be best if the details of the case were referred to National Treasury via the North West Provincial Treasury so that the case can be reviewed and action taken as required.

Several questions were raised that National Treasury cannot respond on as they are not within our department's policy prerogative:

- Questions on the roll-out of NHI should be responded to by the Department of Health
- Questions on the structure of the three spheres of government go to Constitutional issues around the structure of government