

**MINISTER**

**HUMAN SETTLEMENTS, WATER AND SANITATION**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NO.: 112**

**DATE OF PUBLICATION: 11 FEBRUARY 2021**

**Ms E L Powell (DA) to ask the Minister of Human Settlements, Water and Sanitation:**

What legislation informs the (a) provincial departments’ legal right to (i) determine its own housing plans in line with allocated budgets and (ii) determine, advertise and award its own contracts related to the provision of those planned human settlement developments and (b) National Department of Human Settlements’ legal and legislative right to request that all contracts referred to in (ii) above must first be approved by an accounting and/or procurement officer employed in the national department? **NW115E**

**REPLY:**

(a)(i) Section 7 of the Housing Act, 1997 (Act no 107 of 1997), requires that every provincial government must, after consultation with provincial organisations representing municipalities, as contemplated in section 163(a) of the Constitution, do everything in its power to promote and facilitate the provision of adequate housing in its province within the framework of national housing policy.

Furthermore, in subsection 2 (d) provincial governments are required to co-ordinate housing development in the province; and (g) prepare and maintain a multi-year plan in respect of the execution in the province of every national housing programme and every provincial housing programme, which is consistent with national housing policy and in accordance with the guidelines that the Minister approves for the financing of such a plan.

(ii) Section 17 of the Division of Revenue Act, 2020 (Act no 4 of 2020) provides that:

(1) Despite any other legislation to the contrary, an allocation referred to in Schedules 4 to 7 may only be used for the purpose stipulated in the Schedule concerned and in accordance with the applicable framework.

(2) (a) A framework may provide for components within a conditional allocation that are subject to specific conditions.

(b) A transferring officer may shift funds from one component to another—

(i) after consulting the relevant receiving officer;

(ii) with the approval of the National Treasury; and

(iii) in accordance with the applicable appropriation legislation.

(b) Section 10 (1) (a) of the Division of Revenue Act, 2020 (Act no 4 of 2020) provides that the transferring officer of a Schedule 5 or 6 allocation must—

(a) not later than 14 days after this Act takes effect, certify to the National Treasury that—

(i) any monitoring or system that is used, is compatible and integrated with and does not duplicate other relevant national, provincial and local systems; and

(ii) any plans required in terms of the framework of a Schedule 5 allocation regarding the use of the allocation by— (aa) a province, have been approved before the start of the financial year

The Act further provides **in** Section 10 (1) (b) of the Division of Revenue Act, 2020 (Act no 4 of 2020), that the transferring officer of a Schedule 5 or 6 allocation must (b) in respect of Schedule 5 allocations—

(i) transfer funds only after receipt of all information required to be submitted by the receiving officer in terms of this Act and after submission of all relevant information to the National Treasury;

(ii) transfer funds in accordance with the payment schedule determined in terms of section 23, unless allocations are withheld or stopped in terms of section 18 or 19; and

(iii) deposit funds only into the primary bank account of the relevant province or municipality; and

(c) comply with the applicable framework**.**