**National Assembly**

**Question 3447**

**Mrs N J Nolutshungu (EFF) to ask the Minister of Transport:**

What are the reasons that the Road Accident Fund (a) ignored the ruling of the North Gauteng High Court, (b) disregarded the Public Finance Management Act, Act 1 of 1999, and (c) changed its accounting policy in order to hide the R300 billion it has in liabilities?NW4252E

1. **REPLY**

The Road Accident Fund (RAF),

(a) did not ignore the ruling of the North Gauteng High Court (NGHC). The ruling of the NGHC handed down on 24 February 2022 dealt with the merit of the interdict sought by the RAF to interdict the Auditor-General of South Africa from publishing its audit report of the RAF for the financial year ending 31 March 2021 (Part A of the Application), pending the resolution of the substantive dispute between the parties (Part B of the Application). Consequently, the ruling of the NGHC on Part A of the Application does not deal with the dispute related to the RAF’s adoption of a new accounting policy, which dispute is still before the court, to be determined in part B at a future date. The RAF subsequently launched an application for leave to appeal against the judgment in respect of Part A. The matter was heard on 21 April 2022 and judgment was granted in favour of the RAF on 4 May 2022. The judge stated that: “Having read the papers and having carefully heard counsel I come to the conclusion that there is a reasonable prospect that another court would come to a different conclusion on the order of the court.”

(b) did not disregard the Public Finance Management Act, Act 1 of 1999 (PFMA), quite the contrary, the PFMA in terms of section 55(2)(a) places an obligation on the Board of the RAF to ensure that the annual report and financial statements of the RAF fairly present the state of affairs of the public entity, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned. The RAF is a social benefit scheme as stated in the White Paper on the Road Accident Fund of 1998 approved by Cabinet and effected in the amendment of the RAF Act in 2008. Furthermore, the policy direction of the Road Accident Benefit Scheme as gazetted by the Minister of Transport on 21 November 2011, in the policy paper for the Road Accident Benefit Scheme makes it clear that the policy direction of RAF as a social benefit scheme continues. It is therefore clear that the RAF continues to be a social benefit scheme. Policy continues to be an exclusive competency of the executive arm of the State lead by Cabinet of South Africa. The RAF accounting authority is empowered by section 51(2) of the PFMA which reads thus: “If an accounting authority is unable to comply with any of the responsibilities determined for an accounting authority in this Part, the accounting authority must promptly report the inability, together with reasons, to the relevant executive authority and treasury.” The RAF accounting authority promptly reported its inability to comply, together with the reasons to the Minister of Transport and the National Treasury. The RAF has therefore duly complied with all prescripts including all provisions of the PFMA,

(c) The RAF must in terms of section 55(1)(b) of the PFMA prepare financial statements for each financial year in accordance with generally recognised accounting practice (GRAP) as published by the Accounting Standards Board (ASB). In accounting for its liabilities the RAF is expected to use a GRAP framework and standards as published by the ASB. The RAF as a social benefit fund (provides social welfare as per the White Paper on the Road Accident Fund of 1998), and is excluded from the application of GRAP 19 which provides in paragraph .02 that: “An entity that prepares and presents financial statements under the accrual basis of accounting shall apply this Standard in accounting for provisions, contingent liabilities and contingent assets, except: (a) those provisions and contingent liabilities arising from social benefits provided by an entity for which it does not receive consideration that is approximately equal to the value of goods and services provided directly in return from the recipients of those benefits;…” The RAF in accounting for its social benefits is expected to use the GRAP standard for social benefits. GRAP however does not have a standard for social benefits. GRAP 3, paragraph 8 states that: “In the absence of a Standard of GRAP that specifically applies to a transaction, other event or condition, management shall use its judgement in developing and applying an accounting policy that results in information that is: (a) relevant to the economic decision-making needs of users; (b) reliable, in that the financial statements: (i) represent faithfully the financial position, financial performance and cash flows of the entity; (ii) reflect the economic substance of transactions, other events and conditions, and not merely the legal form; (iii)are neutral, i.e. free from bias; and (iv)are prudent; and (c) are complete in all material respects.” Empowered by this provision of the GRAP standard, the accounting authority then developed and applied an accounting policy that is in line with paragraph 9, 10, 11 and 13 of the same GRAP 3. The RAF then applied its accounting policy developed as stated above to its financial statements which resulted in financial statements providing reliable and more relevant information on the entities financial position, financial performance and cash flows, in line with the GRAP standards and the PFMA. It is therefore incorrect to make an assertion that the RAF has hidden R300 billion. For more information, please refer to the attached explanatory memorandum to the Standing Committee on Public