

**DIE PROVINSIE NOORD-KAAP
THE PROVINCE OF THE NORTHERN CAPE**

**Buitengewone Provinsiale Koerant
Provincial Gazette Extraordinary**

Verkoopprys • Selling price: **R1,50**
Buitelands • Other countries: **R1,95**

Vol. 1

PRETORIA, 9 SEPTEMBER 1994

No. 9

Offisiële Kennisgewing

OFFISIËLE KENNISGEWING 1 VAN 1994

**INSTELLING VAN PROVINSIALE
BEHUISINGSRAAD**

Kragtens die bevoegdheid my verleen by subartikel (1), gelees met subartikels (2) en (3) van artikel 11, van die Behuisingswet, 1966 (Wet No. 4 van 1966), bepaal ek, Oneas Dikgetsi, Uitvoerende Raadslid verantwoordelik vir Behuising in die Noord-Kaap, met instemming van die ander Uitvoerende Raadslede, dat met ingang van die datum van hierdie kennisgewing—

- (a) 'n Provinsiale Behuisingsraad vir die provinsie Noord-Kaap ingestel word;
- (b) dat die Provinsiale Raad uit twaalf (12) lede bestaan; en
- (c) dat die ondergenoemde persone die lede van die Provinsiale Raad is:

J. du Plessis	M. Friedberg	C. P. Nel
V. N. Smailes	E. Hans	A. S. Immelman
D. J. Jacobs	B. Marthinus	C. L. Alexander
A. F. Hearne	N. L. Hlithani	S. Hunter

O. DIKGETSI,
LUK vir Behuising en Plaaslike Regering.

Official Notice

OFFICIAL NOTICE 1 OF 1994

**ESTABLISHMENT OF PROVINCIAL
HOUSING BOARD**

Under and by virtue of the powers vested in me by subsection (1), read with subsections (2) and (3), of section 11 of the Housing Act, 1966 (Act No. 4 of 1966) I, Oneas Dikgetsi, Executive Member responsible for Housing in the Northern Cape, with the concurrence of the other members of the Executive Council, determine that with effect from the date of this notice—

- (a) a Provincial Housing Board for the Province of the Northern Cape is established;
- (b) that the Provincial Board shall consist of twelve (12) members; and
- (c) that the undermentioned persons shall be the members of the Provincial Board:

J. du Plessis	M. Friedberg	C. P. Nel
V. N. Smailes	E. Hans	A. S. Immelman
D. J. Jacobs	B. Marthinus	C. L. Alexander
A. F. Hearne	N. L. Hlithani	S. Hunter

O. DIKGETSI,
MEC for Housing and Local Government.

ACT

To provide for the regulation of the collection, receipt, control, custody and issue of State moneys and the receipt, custody and control of other State property; the duties and powers of the Treasury; the granting of guarantees; and matters connected therewith.

(English text signed by the Premier)
(Assented to 2 September 1994)

BE IT ENACTED by the Provincial Legislature of the Province of the Northern Cape, as follows:—

Definitions

1. (1) In this Act and any regulations and instructions issued in terms thereof, unless the context otherwise indicates— 5

“accounting officer” means a person referred to in section 16;

“adjustments estimate” means an estimate of expenditure from the Provincial Revenue Fund submitted to the Provincial legislature in respect of expenditure on services of the Province and which are confined to— 10

- (a) the shifting of funds between and within votes;
- (b) reappropriation of money which was appropriated in the preceding financial year, but was not spent;
- (c) appropriation of money for services of the Province in respect of which no or insufficient moneys have been appropriated in the relevant financial year and which may only be appropriated— 15
 - (i) from money obtained from the sale of assets of the Province; or
 - (ii) as a result of an authorization issued under section 7; 20 or
 - (iii) in respect of expenditure already announced by the responsible Member in his or her speech during the tabling of the appropriation Act in the Provincial legislature; or 25
 - (iv) in respect of expenditure regarded as being unforeseen and unavoidable by the Treasury;

WET

Om voorsiening te maak vir die reëling van die invordering, ontvangs, beheer, bewaring en uitbetaling van Staatsgeld en die ontvangs, bewaring en beheer van ander Staatsgoed, die pligte en bevoegdhede van die Tesourie; die verstrekking van waarborge en aangeleenthede wat daarmee in verband staan.

(Engelse teks deur Premier geteken)

(Goedgekeur op 2 September 1994)

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Noord-Kaap, soos volg:—

Woordomskrywing

1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Wet
5 en in die regulasies en instruksies daarkragtens uitgereik—

“aansuiweringsbegroting” ’n begroting van uitgawes uit die Provinsiale Inkomstefonds wat aan die Provinsiale wetgewer voorgelê word ten opsigte van uitgawes aan die dienste van die Provinsie en wat beperk word tot—

- 10 (a) die verskuiwing van fondse tussen en binne begrotingsposte;
- (b) herbewilliging van geld wat in die voorafgaande boekjaar bewillig is, maar nie bestee is nie;
- 15 (c) bewilliging van geld vir die dienste van die Provinsie ten opsigte waarvan geen of onvoldoende geld in die betrokke boekjaar bewillig is en wat slegs bewillig kan word—
 - (i) uit geld verkry uit die verkoop van bates van die Provinsie; of
 - 20 (ii) as gevolg van ’n magtiging uitgereik kragtens artikel 7; of
 - (iii) ten opsigte van uitgawes wat reeds deur die verantwoordelike Lid in sy of haar toespraak tydens die tertafellegging van die Begrotingswet in die Provinsiale wetgewer aangekondig is; of
 - 25 (iv) ten opsigte van uitgawes wat deur die Tesourie as onvoorsien en onvermybaar beskou word;

(d) any other change or adjustment to an appropriation Act which applies in the relevant financial year and which the Treasury deems necessary; and

(e) additional conditional or unconditional allocations to the Province by Parliament;

5

"appropriation account" means an account mentioned in section 15;

"Appropriation Act" means an Act by which the estimates of expenditure or adjustments estimate is appropriated as a charge against the Provincial Revenue Account approved by the Provincial legislature;

"Auditor-General" means the person appointed as such in terms of section 191(2) of the Constitution;

10

"bank" means a deposit taking institution mentioned in the Deposit-taking Institution Act, 1990 (Act No. 94 of 1990);

"Constitution" means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993);

15

"credit" means an allocation of an amount of money in the Paymaster-General's Account to an accounting officer;

"department" means a department of the Provincial Administration mentioned in the Schedule;

"estimates of expenditure" means estimates of expected expenditure from the Provincial Revenue Fund on the services of the Province during a financial year which are submitted to the provincial legislature and which contain particulars of the purposes for which moneys, appropriated in an appropriation Act shall be utilized and includes any estimates of supplementary expenditure on such services during that financial year which it is deemed necessary to provide for after the first-mentioned estimates have been submitted to the Provincial legislature, but before it has been approved;

20

25

"Exchequer Account" means the account mentioned in section 3(1);

"financial year" means the period extending from 1 April in any year to 31 March in the next succeeding year;

30

"head of department" means an officer appointed in control of a department;

"Instruction" means an instruction issued by the Treasury in terms of section 26 and also a Treasury Instruction contemplated in section 26(3);

35

"National Treasury" means the national financial authority in the Public Service which is vested in the Department of State Expenditure mentioned in the Public Service Act, 1994, and whose powers in relation to any matter are exercised by the Minister of Finance or an officer in that Department who, by virtue of a division of work in that Department, deals with that matter;

40

- (d) enige ander verandering of aansuiwering aan 'n Begrotingswet wat van krag is in die betrokke boekjaar en wat volgens die Tesourie nodig is; en
- (e) bykomende voorwaardelike of onvoorwaardelike toekennings aan die Provinsie deur die Parlement;
- 5 "appropriasierekening" 'n rekening vermeld in artikel 15;
- "bank" 'n depositonemende instelling vermeld in die Wet op Depositonemende Instellings, 1990 (Wet No. 94 van 1990);
- 10 "begroting van uitgawes" 'n begroting van verwagte uitgawes uit die Provinsiale Inkomstefonds aan die dienste van die Provinsie gedurende 'n boekjaar wat aan die Provinsiale wetgewer voorgelê word, en wat besonderhede bevat van die doeleindes waarvoor die geld wat in 'n Begrotingswet bewillig word, aangewend moet word, en ook 'n begroting van aanvullende uitgawes aan sodanige dienste gedurende daardie boekjaar ten opsigte waarvan dit nodig geag word om voorsiening te maak nadat eersgenoemde begroting aan die Provinsiale wetgewer voorgelê is, maar voordat dit goedgekeur is;
- 15 "begrotingspos" 'n begrotingspos aangetoon in 'n bylae by 'n Begrotingswet;
- 20 "Begrotingswet" 'n wet waarby 'n begroting van uitgawes of aansuiweringsbegroting ten laste van die Provinsiale Inkomsterekening deur die Provinsiale wetgewer goedgekeur is;
- "Betaalmeester-generaalrekening" die rekening vermeld in artikel 9(1);
- 25 "boekjaar" die tydperk wat strek vanaf 1 April in 'n jaar tot 31 Maart in die daaropvolgende jaar;
- "departement" 'n departement van die Provinsiale Administrasie genoem in die Bylae;
- 30 "departementshoof" die beampte wat aangestel is in beheer van 'n departement;
- "die Bank" 'n bank waaraan bankrekenings ingevolge artikel 11(1) toegeken is;
- "die verantwoordelike Lid" die lid van die Uitvoerende Raad van die Provinsie belas met finansiële aangeleenthede;
- 35 "Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993);
- "Inkomste" alle geld ontvang by wyse van belasting, heffings of regte, hetsy direk of as oordragte uit die Nasionale Inkomstefonds en alle toevallige en ander ontvangste van die Provinsie, uit watter bron ook al afkomstig, waaroor die Provinsiale Wetgewer bewilligingsbevoegdheid besit, en ook geld ingevolge die bepaling van 'n wet geleen, maar nie ook die bedrag van 'n boete van hoogstens R50 deur 'n geregshof aan iemand opgelê, vir sover daardie bedrag nie betaal is nie, of inkomste wat die Nasionale Inkomstefonds of enige ander provinsiale inkomstefonds toeval nie;
- 40
- 45

- "Paymaster-General's Account" means the account mentioned in section 9(1);
- "Province" means the Province of the Northern Cape;
- "Provincial Administration" means the Provincial Administration: Northern Cape mentioned in the first column of Schedule 1 to the Public Service Act, 1994; 5
- "Provincial debt" means money borrowed by the Province under any law, or debts and liabilities assumed by the Province in terms of section 239(3) of the Constitution and which is to be repaid from the Provincial Revenue Fund; 10
- "Provincial Revenue Account" means the account mentioned in section 2;
- "Provincial Revenue Fund" means the Provincial Revenue Fund of the Province established by section 159 of the Constitution;
- "Regulation" means any regulation made by the responsible Member under section 25 and also any regulation contemplated in section 25(4); 15
- "revenue" means all moneys received whether directly or as transfer payments from the National Revenue Fund by way of taxes, imposts or duties and all casual and other receipts of the Province, whatever the source, which may be appropriated by the Provincial legislature, and includes moneys borrowed in terms of the provisions of any law, but does not include the amount of any fine not exceeding R50 imposed upon any person by any court of law, in so far as such amount has not been paid, or revenue accruing to the National Revenue Fund or any other provincial revenue fund; 20 25
- "State moneys" means—
- (a) all Revenue; and
 - (b) all other moneys whatever received or held by an accounting officer for, or on account of, the Province; 30
- "State Property" means any property of the Province, the disposal of which is not governed by any other law;
- "statutory body" means any local authority, board, fund, institution, company, corporation or other organization established or constituted by or under any law in terms of which funding is done from the Provincial Revenue Fund or the accounts thereof are to be audited by the Auditor-General; 35
- "the Bank" means a bank to which banking accounts have been allocated in terms of section 11(1);
- "the responsible Member" means the member of the Executive Council of the Province entrusted with financial matters; 40
- "Treasury" means the provincial financial authority in the Provincial Administration which is vested in the department responsible for financial matters, and whose powers in relation to any matter are exercised by the responsible Member or an officer in that department who, by virtue of a division of work in that department, deals with that matter; 45

- "Instruksie" 'n instruksie deur die Tesourie kragtens artikel 26 uitgereik en ook 'n Tesourie-instruksie kragtens artikel 26(3);
- "kredit" 'n toewysing van 'n bedrag in die Betaalmeester-generaal-rekening aan 'n rekenpligtige beampte;
- 5 "Nasionale Tesourie" die nasionale finansiële gesag in die Staatsdiens wat gesetel is in die Departement van Staatsbesteding vermeld in die Staatsdienswet, 1994, en wie se bevoegdhede met betrekking tot die een of ander aangeleentheid uitgeoefen word deur die Minister van Finansies of 'n beampte in daardie departement
- 10 wat, uit hoofde van die indeling van werk in daardie Departement, met daardie aangeleentheid handel;
- "Ouditeur-generaal" die persoon wat ingevolge artikel 191(2) van die Grondwet as sodanig aangestel is;
- "Provinsie" die Provinsie Noord-Kaap;
- 15 "Provinsiale Administrasie" die Provinsiale Administrasie: Noord-Kaap vermeld in die eerste kolom van Bylae 1 tot die Staatsdienswet, 1994;
- "Provinsiale Inkomstefonds" die Provinsiale Inkomstefonds van die Provinsie by artikel 159 van die Grondwet ingestel;
- 20 "Provinsiale Inkomsterekening" die rekening vermeld in artikel 2;
- "Provinsiale skuld" geld wat deur die Provinsie kragtens 'n wet geleen is, of skulde en verpligtinge wat ingevolge artikel 239(3) van die Grondwet die Provinsie toeval en uit die Provinsiale Inkomstefonds terugbetaal moet word;
- 25 "Regulasie" 'n regulasie deur die verantwoordelike Lid kragtens artikel 25 uitgevaardig en ook 'n regulasie beoog in artikel 25(4);
- "rekenpligtige beampte" 'n persoon beskryf in artikel 16;
- "Skatkisrekening" die rekening vermeld in artikel 3(1),
- "Staatsgeld" —
- 30 (a) alle inkomste; en
- (b) alle ander geld hoegenaamd wat deur 'n rekenpligtige beampte vir of op rekening van die Provinsie ontvang is of gehou word;
- 35 "Staatsgoed" enige eiendom van die Provinsie, die beskikking waarvoor nie by 'n ander wet gereël word nie;
- "statutêre liggaam" enige plaaslike owerheid, raad, fonds, instelling, maatskappy, korporasie of ander organisasie wat gestig of saamgestel is by of kragtens 'n wet ingevolge waarvan finansiering uit die Provinsiale Inkomstefonds gedoen kan word of die rekenings daarvan deur die Ouditeur-generaal geouditeer moet word;
- 40
- 45 "Tesourie" die provinsiale finansiële gesag in die Provinsiale Administrasie wat gesetel is in die departement verantwoordelik vir finansiële aangeleenthede, en wie se bevoegdhede met betrekking tot die een of ander aangeleentheid uitgeoefen word deur die verantwoordelike Lid of 'n beampte in daardie departement wat, uit hoofde van die indeling van werk in daardie departement, met daardie aangeleenthede handel;

"trust money" means money kept by an accounting officer or other person in the service of the Province on behalf of a person or body, which money is not State money;

"trust Property" means property kept by an accounting officer or other person in the service of the Province on behalf of a person or body, which property is not State property; 5

"vote" means a vote shown in a schedule to an appropriation Act.

(2) Any reference to the State Revenue Fund or the Account for Provincial Services: Cape in any law, the administration of which has been assigned to the Province in terms of section 235(8) of the Constitution, shall be deemed to be a reference to the Provincial Revenue Account, as the case may be. 10

CHAPTER 1

REVENUE, EXPENDITURE AND ACCOUNTING SYSTEM

15

Account of Provincial Revenue Fund

2. The Treasury shall make provision in its books in respect of the Provincial Revenue Fund for a Provincial Revenue Account which shall be credited with all revenue accruing to it in terms of this Act or any other law, and from which shall be defrayed all expenditure and be paid any amounts with which it is charged in terms of this Act or any other law. 20

The Exchequer Account

3. (1) The Treasury shall maintain at the Bank an account, entitled "the Account of the Exchequer of the Province of the Northern Cape", into which shall, subject to the provisions of subsection (2), be deposited all revenue. 25

(2) (a) The Treasury shall in the manner prescribed in the Regulations designate principal receivers of revenue in respect of all revenue received by the Province.

(b) A principal receiver of revenue contemplated in paragraph (a) shall cause the revenue received at his or her office from time to time, less the amount of any drawbacks and other refunds, to be deposited in the Exchequer Account. 30

(c) Such deposits shall be made on each appropriate working day.

(3) The Bank shall on each appropriate working day render to the Treasury, in such form as the Treasury may determine, returns of revenue deposited in the Exchequer Account. 35

(4) The Treasury may utilize any moneys in the Exchequer Account for the defrayment of expenditure chargeable to the Provincial Revenue Account. 40

(5) The Treasury shall, subject to the provisions of this Act, ensure that there shall at all times be sufficient moneys in the Exchequer Account for transfer in accordance with section 9(1).

"trustgeld" geld deur 'n rekenpligtige beampte of ander persoon in diens van die Provinsie gehou ten behoeve van 'n persoon of instansie, welke geld nie Staatsgeld is nie;

5 "trustgoed" goed deur 'n rekenpligtige beampte of ander persoon in diens van die Provinsie gehou ten behoeve van 'n persoon of instansie, welke goed nie Staatsgoed is nie.

(2) 'n Verwysing na die Staatsinkomstefonds of die Rekening vir Provinsiale Dienste: Kaap in 'n wet waarvan die uitvoering ingevolge artikel 235(8) van die Grondwet aan die Provinsie opgedra is, word geag 'n
10 verwysing na die Provinsiale Inkomstefonds of die Provinsiale Inkomsterekening, na gelang van die geval, te wees.

HOOFSTUK 1

INKOMSTE, UITGAWES EN REKENINGSTELSEL

Rekening van Provinsiale Inkomstefonds

15 2. Die Tesourie maak in sy boeke ten opsigte van die Provinsiale Inkomstefonds voorsiening vir 'n Provinsiale Inkomsterekening wat gekrediteer word met alle inkomste wat dit toeval ingevolge hierdie Wet of 'n ander wet, en waaruit alle uitgawes bestry en bedrae betaal word waarmee dit ingevolge hierdie Wet of 'n ander wet belas word.

20 Die Skatkisrekening

3. (1) Die Tesourie moet by die Bank 'n rekening met die naam "die Rekening van die Skatkis van die Provinsie Noord-Kaap" hou waarin, behoudens die bepalings van subartikel (2), alle inkomste gestort word.

(2) (a) Die Tesourie moet op die wyse in die Regulasies voorgeskrif
25 hoofontvangers van inkomste aanwys ten opsigte van alle inkomste wat deur die Provinsie ontvang word.

(b) 'n Hoofontvanger van inkomste bedoel in paragraaf (a) moet die inkomste wat van tyd tot tyd by sy of haar kantoor ontvang word, min die bedrag van teruggawes en ander terugbetalings, in die Skatkisrekening
30 laat stort.

(c) Sodanige stortings moet op elke toepaslike werkdag geskied.

(3) Die Bank moet op elke toepaslike werksdag aan die Tesourie opgawes verstrek in die vorm wat die Tesourie bepaal, van inkomste wat in die Skatkisrekening gestort is.

35 (4) Die Tesourie kan die geld in die Skatkisrekening aanwend om uitgawes te bestry waarmee die Provinsiale Inkomsterekening belas moet word.

(5) Die Tesourie moet, behoudens die bepalings van hierdie Wet, sorg dra dat daar te alle tye voldoende geld in die Skatkisrekening is om
40 ooreenkomstig artikel 9(1) oorgedra te kan word.

Appropriation of moneys in Provincial Revenue Fund, and estimates of expenditure and revenue

4. (1) The moneys in the Provincial Revenue Fund shall be appropriated by the Provincial legislature as a charge against the Provincial Revenue Account by an appropriation Act or other act for the requirements of the Province: Provided that until such time as provision has been made in an appropriation Act for such requirements during a financial year, such moneys shall be deemed to have been appropriated by an Act for such requirements to an amount of— 5

- (i) in respect of the first four months of the relevant financial year, to not more than 45 per cent of, and 10
- (ii) in respect of each of the following months, to not more than 10 per cent of; and
- (iii) in total to not more than,

the amount voted by the Provincial legislature, by an appropriation Act for the immediately preceding financial year. 15

(2) Issues by virtue of the proviso to subsection (1) shall be deemed to be issues by virtue of the appropriation Act for the financial year in question, and as a charge against the Provincial Revenue Account.

(3) Moneys deemed to have been appropriated as contemplated in the proviso to subsection (1) shall only be utilized for services in respect of which expenditure was authorized by an appropriation Act during the immediately preceding financial year, or in respect of which some other authorization by another act exists. 20

- (4) When applying this section where— 25
 - (a) the Province could not adopt an appropriation Act as it did not yet exist; or
 - (b) certain functions were imposed on the Province after an appropriation act had been passed for the preceding financial year, in the case of paragraph (a) the total amount on which the relevant percentages are based is determined by the responsible Member, and in the case of paragraph (b) the total amount of the appropriation Act of the preceding financial year is increased by the costs of that function for a full year and such functions shall, for the purposes of subsection (3), be deemed to be part of the relevant appropriation Act. 30 35
- (5) The responsible Member—
 - (a) shall for every financial year, in a form determined by the Minister responsible for national financial matters, submit to the Provincial legislature an estimate of expenditure to be defrayed from the Provincial Revenue Account; and 40
 - (b) may submit to the Provincial legislature an adjustments estimate to be so defrayed.

Duration of appropriation Act, and expenditure in a financial year

5. (1) An appropriation Act shall not be construed as authorizing the utilization of moneys appropriated thereby in a financial year other than the financial year to which it expressly relates. 45

Inkomstefonds, bewilliging van geld in Provinsie en begroting van uitgawes en beraming van inkomste

4. (1) Die geld in die Provinsiale Inkomstefonds word deur die Provinsiale wetgewer ten laste van die Provinsiale Inkomsterekening by 'n Begrotingswet of 'n ander Wet vir die behoeftes van die Provinsie bewillig: Met dien verstande dat tot tyd en wyl voorsiening in 'n Begrotingswet vir dié behoeftes gedurende 'n boekjaar gemaak is, daardie geld geag by 'n Wet vir daardie behoeftes bewillig te wees tot 'n bedrag van—

- (i) ten opsigte van die eerste vier maande van die betrokke boekjaar, hoogstens 45 persent van; en
 - (ii) ten opsigte van elke daaropvolgende maand, hoogstens 10 persent van; en
 - (iii) in totaal hoogstens,
- die bedrag wat die Provinsiale wetgewer vir die onmiddellik voorafgaande boekjaar, by 'n Begrotingswet bewillig het.

(2) Uitbetalings uit hoofde van die voorbehoudsbepaling by subartikel (1) word geag uitbetalings te wees uit hoofde van die Begrotingswet vir die betrokke boekjaar, en wel ten laste van die Provinsiale Inkomsterekening.

(3) Geld wat geag word bewillig te wees soos beoog in die voorbehoudsbepaling by subartikel (1) moet slegs aangewend word vir dienste ten opsigte waarvan uitgawes gedurende die onmiddellik voorafgaande boekjaar by 'n Begrotingswet gemagtig is, of ten opsigte waarvan daar 'n ander magtiging by 'n ander Wet is.

(4) By die toepassing van hierdie artikel waar—

- (a) die Provinsie nie 'n Begrotingswet kon aanneem nie omdat dit nog nie beslag gekry het nie; of
- (b) bepaalde funksies aan die Provinsie opgedra is nadat begrotingswette vir die voorafgaande boekjaar aangeneem is, word die totale bedrag waarop die betrokke persentasies gebaseer word in die geval beoog in paragraaf (a), bepaal deur die verantwoordelike Lid, en in die geval beoog in paragraaf (b) word die totale bedrag van 'n Begrotingswet van die voorafgaande boekjaar verhoog met die voljaarkoste van funksies opgedra en word hierdie funksies vir doeleindes van subartikel (3) geag by die betrokke Begrotingswet ingesluit te gewees het.

(5) Die verantwoordelike Lid—

- (a) moet vir iedere boekjaar, in die vorm wat die Minister verantwoordelik vir nasionale finansiële aangeleenthede bepaal, 'n begroting van uitgawes wat uit die Provinsiale Inkomsterekening bestry word aan die Provinsiale wetgewer voorlê, en
- (b) kan 'n aansuiweringsbegroting wat aldus bestry moet word, aan die Provinsiale wetgewer voorlê.

Duur van begrotingswet, en uitgawes in 'n boekjaar

5. (1) 'n Begrotingswet word nie so uitgelê nie dat dit magtiging verleen vir die besteding van geld wat daarby bewillig is, in 'n ander boekjaar as dié waarop dit uitdruklik betrekking het.

(2) Subject to the provisions of subsection (3) and section 7, expenditure shall in each financial year be incurred in accordance with standing statutory appropriations and, in respect of each vote, in accordance with the main divisions thereof, the particulars of which shall be contained in the estimates of expenditure and the adjustments estimate. 5

(3) Expenditure on a service in respect of which no or insufficient provision has been made in an appropriation Act, shall not be brought to account as a final debit against a vote, unless—

- (a) in the case of insufficient provision, a saving under any main division of the vote concerned being applied towards such expenditure, unless the Treasury directs otherwise; or 10
- (b) the responsible Member granted a written authority therefor beforehand in terms of section 7.

Column 2 items

6. (1) The amounts appearing in "Column 2" of a schedule to an appropriation Act in respect of any vote shall, subject to the provisions of section 7(1)(b)(ii), not be exceeded, and savings thereon may, with the approval of the responsible Member, be applied towards the defrayment of any other expenditure for which insufficient appropriation has been made under that vote. 15 20

(2) An amount appearing in "Column 2" of a schedule to an appropriation Act in respect of any vote, may be increased with such a portion of the moneys appropriated for the Vote: Improvement of conditions of service of the Province, as the accounting officer of that vote in consultation with the Treasury may determine. 25

Authority by the responsible Member for utilization of moneys in certain circumstances

7. (1) Notwithstanding the provisions of sections 4 and 6, the responsible Member may grant authority for moneys in the Provincial Revenue Fund to be utilized during a financial year— 30

- (a) to defray expenditure of an exceptional nature which has not been provided for in an appropriation Act and which cannot without serious prejudice to the public interest be postponed until appropriation therefor can be made by the Provincial legislature; or 35
- (b) to defray—
 - (i) expenditure in connection with an expected excess on a vote which cannot without serious prejudice to the public interest be postponed until appropriation therefor can be made by the Provincial legislature; and 40
 - (ii) expenditure in connection with an expected excess of amounts which appear in "Column 2" of a schedule to an appropriation Act:

Provided that the total amount in respect of which authority may be granted in terms of this section shall not at any time exceed an amount equal to two per cent of the total amount appropriated by the then current appropriation Act or which is available by virtue of the proviso to section 4(1). 45

(2) Behoudens die bepalings van subartikel (3) en artikel 7, moet uitgawes in elke boekjaar aangegaan word in ooreenstemming met staande statutêre bewilligings en, ten opsigte van elke begrotingspos, in ooreenstemming met die hoofdelings daarvan, waarvan die besonder-

5 hede vervat is in die begroting van uitgawes en die aansuiweringsbegroting.

(3) Uitgawes aan 'n diens waarvoor geen of onvoldoende voorsiening in 'n Begrotingswet gemaak is, mag nie as 'n finale debiet teen 'n begrotingspos geboek word nie, tensy —

- 10 (a) in die geval van onvoldoende voorsiening, 'n besparing onder 'n hoofdeling van die betrokke begrotingspos in daardie uitgawes aangewend kan word, tensy die Tesourie anders gelas; of
- (b) die verantwoordelike Lid 'n skriftelike magtiging vooraf ingevolge artikel 7 daarvoor verleen het.

15 Kolom 2-items

6. (1) Die bedrae wat in "Kolom 2" van 'n bylae by 'n Begrotingswet ten opsigte van 'n begrotingspos voorkom, mag, behoudens die bepalings van artikel 7(1)(b)(ii), nie oorskry word nie, en besparings daarop kan, met die goedkeuring van die verantwoordelike Lid, aangewend word ter

20 bestryding van ander uitgawes waarvoor 'n onvoldoende bewilliging onder daardie begrotingspos gemaak is.

(2) 'n Bedrag wat in "Kolom 2" van 'n bylae by 'n Begrotingswet ten opsigte van 'n begrotingspos voorkom, kan verhoog word met sodanige gedeelte van die geld wat bewillig is vir die Begrotingspos: Verbetering van

25 diensvoorwaardes van die Provinsie, as wat die rekenpligtige beampte van daardie Begrotingspos in oorleg met die Tesourie bepaal.

Magtiging deur verantwoordelike Lid vir aanwending van geld onder sekere omstandighede

7. (1) Ondanks die bepalings van artikel 4 en 6, kan die verantwoordelike Lid magtiging verleen dat geld in die Provinsiale Inkomstefonds gedurende 'n boekjaar aangewend word —

30

(a) ter bestryding van uitgawes van 'n besondere aard waarvoor nie in 'n Begrotingswet voorsiening gemaak is nie en wat nie sonder ernstige benadeling van die openbare belang uitgestel kan word nie totdat bewilliging daarvoor deur die Provinsiale wetgewer gemaak kan word; of

35

(b) ter bestryding van —

(i) uitgawes in verband met 'n verwagte oorskryding van 'n begrotingspos wat nie sonder ernstige benadeling van die openbare belang uitgestel kan word nie totdat bewilliging daarvoor deur die Provinsiale wetgewer gemaak kan word; en

40

(ii) uitgawes in verband met 'n verwagte oorskryding van bedrae wat in "Kolom 2" van 'n bylae by 'n Begrotingswet voorkom:

45

Met dien verstande dat die totale bedrag ten opsigte waarvan magtiging ingevolge hierdie artikel verleen mag word, op geen tydstip 'n bedrag gelykstaande aan twee persent van die totale bedrag wat bewillig is by die dan geldende Begrotingswet of wat beskikbaar is uit hoofde van die

50 voorbehoudsbepaling by artikel 4(1), te bowe mag gaan nie.

(2) Steps shall be taken, not later than during the next ensuing sitting of the Provincial legislature, for the appropriation of any amounts which have been or will be utilized in terms of subsection (1).

(3) The authority contemplated in subsection (1) shall be granted only if it complies with the criteria stated in the definition of "adjustments estimate" in section 1 (1). 5

Power of Treasury to limit or suspend incurring of expenditure

8. (1) Notwithstanding anything to the contrary contained in any law, including any law whereby money is appropriated for any statutory body, fund or account, the appropriation Act, or an authority granted in terms of section 7, shall be construed as merely indicating the maximum amount which may be utilized for the service or purpose concerned, and the Treasury may withhold or suspend the disbursement of moneys which have been appropriated or in respect of which authority has been granted in terms of section 7(1), if in the opinion of the Treasury circumstances make such withholding or suspension desirable. 10 15

(2) The Treasury shall keep a record of every withholding or suspension in terms of subsection (1) and shall without delay notify the accounting officer and the Auditor-General of every such withholding or suspension. 20

(3) Any amount of which payment was in terms of subsection (1) withheld or suspended may be utilized during the financial year concerned for a purpose approved by the Treasury.

(4) The Treasury shall keep a record, and without delay notify the Auditor-General, of every approval granted in terms of subsection (3). 25

Account of Paymaster-General

9. (1) In addition to the Exchequer Account, the Treasury shall maintain at the Bank an account entitled the Account of the Paymaster-General and may cause so much of any moneys—

- (a) appropriated by law; or 30
- (b) which may, by virtue of the provisions of section 7, be utilized for any purpose; or
- (c) deemed to be appropriated by law,

as has been requisitioned in terms of subsection (2), to be transferred from the Exchequer Account to the Paymaster-General's Account. 35

(2) (a) The Treasury shall grant to an accounting officer, on a requisition by him or her, and out of the moneys in the Paymaster-General's Account, credits out of which disbursements for the services for which he or she is responsible, shall be made by him or her.

(b) The Treasury may limit the granting of credits referred to in paragraph (a) to the amounts which, in its opinion, are required for current payments in respect of the service or purpose for which it may be utilized. 40

(2) Stappe moet gedoen word, nie later nie as gedurende die eersvolgende sitting van die Provinsiale wetgewer, vir die bewilliging van bedrae wat ingevolge subartikel (1) aangewend is of sal word.

(3) Die magtiging in subartikel (1) bedoel word slegs verleen indien
5 dit voldoen aan die kriteria uiteengesit in die omskrywing van "aan-suiweringsbegroting" in artikel 1 (1).

Bevoegdheid van Tesourie om aangaan van uitgawes te beperk of op te skort

8. (1) Ondanks andersluidende bepalings van die een of ander
10 wet, met inbegrip van 'n wet waarby geld vir die een of ander statutêre liggaam, fonds of rekening bewillig word, word die bewilliging by 'n Begrotingswet, of 'n magtiging verleen ingevolge artikel 7, uitgelê asof dit bloot die maksimum bedrag aangee wat vir die betrokke diens of doel aangewend mag word, en kan die Tesourie die uitbetaling van geld wat
15 bewillig is of ten opsigte waarvan magtiging ingevolge artikel 7(1) verleen is, weerhou of opskort, indien omstandighede volgens die oordeel van die Tesourie sodanige weerhouding of opskorting wenslik maak.

(2) Die Tesourie moet aantekening hou van elke weerhouding of opskorting ingevolge subartikel (1) en moet die rekenpligtige beampte en
20 die Ouditeur-generaal onverwyld van elke sodanige weerhouding of opskorting in kennis stel.

(3) 'n Bedrag waarvan betaling ingevolge subartikel (1) weerhou of opgeskort is, kan in die betrokke boekjaar vir 'n doel goedgekeur deur die Tesourie aangewend word.

25 (4) Die Tesourie moet aantekening hou, en die Ouditeur-generaal onverwyld in kennis stel, van elke goedkeuring ingevolge subartikel (3) verleen.

Rekening van Betaalmeester-generaal

9. (1) Die Tesourie hou by die Bank, benewens die Skatkisrekening, 'n rekening wat die Rekening van die Betaalmeester-generaal heet en kan soveel van die geld wat—
30

(a) by wet bewillig is; of

(b) uit hoofde van die bepalings van artikel 7 vir die een of ander doel aangewend mag word; of

35 (c) geag word by wet bewillig te wees,

as wat ingevolge subartikel (2) aangevra is, uit die Skatkisrekening na die Betaalmeester-generaalrekening laat oordra.

(2) (a) Die Tesourie verleen uit die geld in die Betaalmeester-generaalrekening aan 'n rekenpligtige beampte, op aanvraag deur hom of
40 haar kredits waaruit betalings vir die dienste waarvoor hy of sy verantwoordelik is, deur hom of haar gedoen moet word.

(b) Die Tesourie kan die verlening van kredits bedoel in paragraaf (a) beperk tot die bedrae wat volgens sy oordeel benodig word vir lopende betalings ten opsigte van die diens of doel waarvoor dit aangewend mag
45 word.

(3) The Treasury shall not grant a credit in respect of an amount of which payment was withheld or suspended in terms of section 8(1), unless an approval has been granted in terms of section 8(3).

(4) An accounting officer shall keep account of all credits granted to him or her in terms of subsection (2) as well as all disbursements therefrom. 5

(5) An accounting officer may, in addition to State moneys, deposit other moneys for which he or she is accountable in the Paymaster-General's Account and may make disbursements from that account.

(6) In regard to the Paymaster-General's Account the Treasury shall maintain for each accounting officer an account of all credits, deposits, disbursements and withdrawals. 10

(7) An accounting officer shall as soon as is practicable after his or her accounts for any financial year have been closed, surrender to the Treasury, for redepositing in the Exchequer Account, any unexpended moneys in respect of which he or she received credits in terms of subsections (2) and (8), and the Treasury shall credit therewith the account in the Provincial Revenue Fund which was charged with the anticipated expenditure concerned. 15

(8) If it appears after 31 March of any financial year that the expenditure by an accounting officer on services in that financial year may possibly exceed the amount of the credits granted to him or her by the Treasury in terms of subsection (2), he or she shall as soon as possible, provided appropriate funds for that financial year are still available under the vote concerned, requisition the Treasury for a credit to cover such expected excess, and the Treasury may, in the manner prescribed in subsections (1) and (2), grant the necessary credit and cause the moneys in question to be transferred in the following financial year. 20 25

(9) An accounting officer shall limit the amount of his or her requisitions on the Treasury for credits to the amounts which in his or her opinion are essential to meet his or her current monthly disbursements, and the Treasury shall, subject to the provisions of section 8(1), grant credits to the extent of such amounts and to such extent only. 30

(10) The Treasury shall limit the amount of its requisitions on the National Treasury for credits in respect of moneys accruing to it in terms of section 155(2)(c) and 158 of the Constitution as a charge against the National Revenue Account, to amounts necessary to defray its current expenditure, and the National Treasury shall grant credits for such amounts. 35

(11) Notwithstanding anything to the contrary contained in this section, the Treasury may, on a requisition by the Secretary of the Provincial legislature, pay to the said Secretary the moneys appropriated for the services of the Provincial legislature, or which, by virtue of the provisions of section 7, may be utilized therefore, or are deemed to be appropriated therefore by law, and the Treasury shall for that purpose grant the said Secretary credits. 40 45

(12) The Treasury may temporarily utilize moneys in the Paymaster-General's Account, which in its opinion are available therefor—

- (a) to grant advances to an accounting officer on such conditions as it may determine;

(3) Die Tesourie verleen geen kredit nie ten opsigte van 'n bedrag waarvan uitbetaling ingevolge artikel 8(1) weerhou of opgeskort is, tensy 'n goedkeuring ingevolge artikel 8(3) verleen is.

5 (4) 'n Rekenpligtige beampte moet boekhou van alle kredits wat ingevolge subartikel (2) aan hom of haar verleen is, en van alle betalings daaruit gemaak.

(5) 'n Rekenpligtige beampte kan, benewens Staatsgeld, ander geld waarvoor hy of sy verantwoording moet doen, in die Betaalmeester-generaalrekening stort en kan uitbetalings uit daardie rekening doen.

10 (6) Die Tesourie hou, met betrekking tot die Betaalmeester-generaalrekening, vir elke rekenpligtige beampte 'n rekening ten opsigte van alle kredits, stortings, uitbetalings en onttrekkings.

(7) 'n Rekenpligtige beampte moet so spoedig moontlik na die afsluiting van sy of haar rekenings vir 'n boekjaar enige onbestede geld ten
15 opsigte waarvan hy of sy kredit ingevolge subartikels (2) en (8) ontvang het, aan die Tesourie oorbetal vir terugstorting in die Skatkisrekening, en die Tesourie moet die rekening in die Provinsiale Inkomstefonds wat met die betrokke verwagte uitgawe belas was, daarmee krediteer.

(8) Indien dit na 31 Maart van 'n boekjaar blyk dat 'n rekenpligtige
20 beampte se uitgawes aan dienste in daardie betrokke boekjaar die bedrag van die kredits wat deur die Tesourie ingevolge subartikel (2) aan hom of haar verleen is, moontlik sal oorskry, moet hy of sy indien daar nog bewilligde fondse onder die betrokke begrotingspos vir daardie boekjaar beskikbaar is, so spoedig doenlik by die Tesourie 'n kredit aanvra om daardie
25 verwagte oorskryding te dek, en die Tesourie kan, op die wyse in subartikels (1) en (2) bepaal, die nodige kredit verleen en die betrokke geld in die volgende boekjaar laat oordra.

(9) 'n Rekenpligtige beampte moet die bedrag van sy of haar aanvrae om kredits by die Tesourie beperk tot die bedrae wat na sy of haar
30 mening noodsaaklik is om sy of haar lopende maandelikse uitgawes te bestry, en die Tesourie verleen, behoudens die bepalings van artikel 8(1), kredits vir sodanige bedrae en vir slegs sodanige bedrae.

(10) Die Tesourie beperk die bedrag van aanvrae om kredits by die Nasionale Tesourie ten opsigte van geld wat dit kragtens artikel 155(2)(c)
35 en 158 van die Grondwet ten laste van die Nasionale Inkomsterekening toeval tot bedrae wat noodsaaklik is om sy lopende uitgawes te bestry, en die Nasionale Tesourie verleen kredits vir sodanige bedrae.

(11) Ondanks andersluidende bepalings van hierdie artikel, kan die Tesourie op aanvraag deur die Sekretaris van die Provinsiale wetgewer die
40 geld wat vir die dienste van die Provinsiale wetgewer bewillig is of uit hoofde van die bepalings van artikel 7 daarvoor aangewend mag word, of geag word by wet daarvoor bewillig te wees, aan genoemde Sekretaris oorbetal, en die Tesourie verleen vir dié doel kredits aan genoemde Sekretaris.

45 (12) Die Tesourie kan geld in die Betaalmeester-generaalrekening, wat volgens oordeel daarvoor beskikbaar is tydelik aanwend—

(a) om, op die voorwaardes wat dit bepaal, voorskotte aan 'n rekenpligtige beampte te gee;

- (b) to make transfers to the Exchequer Account for the purposes of the financing of anticipated deficits in that account, and moneys so transferred shall be deemed to be moneys borrowed in accordance with the provisions of any law; and
- (c) for temporary investment on such conditions as it may determine. 5

Power of the Treasury to utilize moneys in the Exchequer Account for certain purposes

10. (1) The Treasury may utilize available moneys in the Exchequer Account— 10

- (a) for temporary investment in the Republic on such conditions as it may determine;
- (b) for the payment of legitimate claims arising from a guarantee, an indemnity or a security furnished by or accruing to the Province; and 15
- (c) for the refund of money inadvertently or incorrectly paid into the Exchequer Account.

(2) The moneys utilized under subsection (1) for specific purposes, shall be deemed to have been appropriated for such purposes.

(3) The member of the Executive Council responsible for the department concerned in a matter referred to in section 22, shall as soon as practicable lay upon the Table in the Provincial legislature a statement reflecting the utilization of moneys in terms of subsection (1)(b). 20

Allocation of and authority for opening of bank accounts

11. (1) The allocation of banking accounts to a bank in respect of the Exchequer Account and the Paymaster-General's Account shall be done by the Executive Council in consultation with the South African Reserve Bank, and such allocation shall annually be revised by the Treasury in consultation with the South African Reserve Bank. 25

(2) An account in respect of State moneys may only be opened at the Bank or any other bank on the written authority of the Treasury, and where an account has been so opened the Bank or such other bank, as the case may be, shall, subject to section 157(2) of the Constitution, not allow such an account to be overdrawn. 30

Establishment of trading and related accounts 35

12. (1) The Treasury may authorize an accounting officer to establish trading and related accounts in respect of services and goods supplied by his or her department to that department itself, another department or any other institution.

(2) Expenditure in respect of the supply of services and goods referred to in subsection (1), as determined by the Treasury, shall be financed from moneys in the accounts— 40

- (a) which have been appropriated by the Provincial legislature;
- (b) which, notwithstanding anything to the contrary in this Act or any other law contained, have been received in payment for services and goods referred to in subsection (1); 45

- (b) om, vir die doel van die finansiering van verwagte tekorte op die Skatkisrekening, oordragte na daardie rekening te maak, en geld aldus oorgedra, word geag geld te wees wat ooreenkomstig die bepalings van 'n wet geleen is; en
- 5 (c) vir tydelike belegging op die voorwaardes wat hy bepaal.

Tesourie se bevoegdheid om geld in die Skatkisrekening vir sekere doeleindes aan te wend

10. (1) Die Tesourie kan beskikbare geld in die Skatkisrekening aanwend—

- 10 (a) vir tydelike belegging binne die Republiek op die voorwaardes wat dit bepaal;
- (b) vir die betaling van regmatige eise wat ontstaan uit hoofde van 'n waarborg, 'n vrywaring of 'n sekuriteit wat die Provinsie verstrek of toegeval het; en
- 15 (c) vir die terugbetaling van geld wat per abuis of verkeerdelik in die Skatkisrekening gestort is.

(2) Die geld wat kragtens subartikel (1) vir bepaalde doeleindes aangewend word, word geag vir dié doeleindes bewillig te wees.

- (3) Die lid van die Uitvoerende Raad verantwoordelik vir 'n departement betrokke by 'n aangeleentheid in artikel 22 bedoel, moet in die
- 20 Provinsiale wetgewer so gou doenlik 'n staat ter tafel lê wat die aanwending van geld ingevolge subartikel (1)(b) weergee.

Toekenning van en magtiging vir opening van bankrekenings

- 11.** (1) Die toekenning van bankrekenings aan 'n bank ten opsigte
- 25 van die Skatkisrekening en die Betaalmeester-generaalrekening word deur die Uitvoerende Raad in oorleg met die Suid-Afrikaanse Reserwebank gedoen, en sodanige toekenning word jaarliks deur die Tesourie in oorleg met die Suid-Afrikaanse Reserwebank hersien.

- (2) 'n Rekening ten opsigte van Staatsgeld mag slegs met die skriftelike magtig van die Tesourie by die Bank of 'n ander bank geopen word, en
- 30 waar 'n rekening aldus geopen is, laat die Bank of sodanige ander bank, behoudens artikel 157(2) van die Grondwet, nie 'n oortrekking op so 'n rekening toe nie.

Instelling van bedryfs- en verwante rekenings

- 12.** (1) Die Tesourie kan 'n rekenpligtige beampte magtig om
- 35 bedryfs- en verwante rekenings in te stel ten opsigte van dienste en goedere wat sy of haar departement aan daardie departement self, 'n ander departement of enige ander instelling lewer.

- (2) Uitgawes in verband met die lewering van dienste en goedere
- 40 bedoel in subartikel (1), soos deur die Tesourie bepaal, word gefinansier uit geld in die rekenings, wat—

- (a) deur die Provinsiale wetgewer bewillig is;
- (b) ondanks andersluidende bepalings van hierdie Wet of enige ander wet, ter betaling van die dienste en goedere in subartikel
- 45 (1) bedoel, ontvang is;

- (c) which have been obtained from the sale of redundant and unserviceable supplies related to the supply of the services and goods in question;
- (d) which have been obtained with the concurrence of the Treasury from any other source. 5

(3) The Provincial Revenue Account shall be credited with any profit at the end of a financial year and any loss shall be made good from appropriated moneys.

Systems of bookkeeping and accounting

13. The Treasury may, after consultation with the Auditor-General— 10

- (a) prescribe particular systems of bookkeeping and accounting which have not been prescribed by the National Treasury in terms of a national exchequer act, which accounting officers shall follow; and 15
- (b) give guidance, in such manner as it deems necessary, to accounting officers in connection with the systems prescribed by the National Treasury and Treasury.

Accounting for Exchequer Account, and preparation of statements 20

14. (1) The Treasury shall account for the Exchequer Account and shall keep such accounts and records as are necessary to exercise proper control over the Provincial Revenue Fund.

(2) The Treasury shall as soon as practicable after the end of each month, cause statements to be published in the *Provincial Gazette* showing the receipts into and transfers from the Exchequer Account during the period from the first day of the relevant financial year to the end of that month as well as the balances in the Exchequer Account at the beginning and at the end of such period. 25

(3) As soon as practicable after the accounts in respect of any financial year have been closed, but in any case within five months after the close of a financial year, the Treasury shall prepare statements, as prescribed by the National Treasury, of— 30

- (a) the Exchequer Account;
- (b) the Provincial Revenue Account; 35
- (c) the Paymaster-General's Account;
- (d) the Provincial debt and the amount of debt created and redeemed during the financial year;
- (e) the interest and dividends received in the Provincial Revenue Fund and the interest paid on the Provincial debt; 40
- (f) all other moneys controlled by the Treasury.

(4) The Treasury shall within the period referred to in subsection (3), also prepare statements, in support of the Provincial Revenue Account in respect of the financial year in question, of the receipts under the various headings shown in the estimates of revenue and of the transfers from the Exchequer Account on account of each of the votes shown in any appropriation Act for that year. 45

- (c) verkry is uit die verkoop van oortollige ondienlike voorrade wat in verband staan met die lewering van die onderhewige dienste of goedere;
- 5 (d) met die instemming van die Tesourie uit enige ander bron verkry word.

(3) Die Provinsiale Inkomsterekening word met enige wins aan die einde van die boekjaar gekrediteer en enige verlies word uit bewilligde geld goedgemaak.

Stelsel van boekhouding en verantwoording

10 **13.** Die Tesourie kan, na oorlegpleging met die Ouditeur-generaal—

- (a) bepaalde stelsels van boekhouding en verantwoording voorskryf wat nie deur die Nasionale Tesourie ingevolge 'n bepaling van 'n nasionale skatkiswet voorgeskryf is nie, wat rekenpligtige beamptes moet volg; en
- 15 (b) op die wyse wat hy nodig ag, aan rekenpligtige beamptes leiding gee in verband met stelsels deur die Nasionale Tesourie voorgeskryf.

Verantwoording vir Skatkisrekening, en opstel van state

20 **14.** (1) Die Tesourie moet verantwoording doen van die Skatkisrekening en moet die rekenings en rekords hou wat noodsaaklik is vir die uitoefening van behoorlike beheer oor die Provinsiale Inkomstefonds.

(2) Die Tesourie moet so gou doenlik na die einde van elke maand, in die *Provinsiale Koerant* state laat publiseer wat die ontvangste in en oordragte uit die Skatkisrekening aantoon gedurende die tydperk van die eerste dag van die betrokke boekjaar tot aan die einde van daardie maand, asook die saldo's in die Skatkisrekening aan die begin en aan die einde van daardie tydperk.

30 (3) So gou moontlik nadat die rekenings ten opsigte van 'n boekjaar afgesluit is, maar in elk geval binne vyf maande na die einde van 'n boekjaar, moet die Tesourie state, soos deur die Nasionale Tesourie voorgeskryf, opstel van—

- (a) die Skatkisrekening;
- 35 (b) die Provinsiale Inkomsterekening;
- (c) die Betaalmeester-generaalrekening;
- (d) Provinsiale skuld en die bedrag van die skuld wat gedurende die boekjaar aangegaan en gedelg is;
- (e) die rente en dividende in die Provinsiale Inkomstefonds ontvang en die rente op die Provinsiale skuld betaal;
- 40 (f) alle ander geld waaroor die Tesourie beheer het.

(4) Die Tesourie moet ook binne die tydperk bedoel in subartikel (3) en ter staving van die Provinsiale Inkomsterekening ten opsigte van die betrokke boekjaar, state opstel van die ontvangste onder die verskillende

45 hoofde wat in die beramings van inkomste aangetoon word, en van die oordragte uit die Skatkisrekening op rekening van elk van die begrotingsposte wat in 'n Begrotingswet vir daardie jaar aangetoon word.

(5) The Treasury shall transmit the statements referred to in subsections (3) and (4) to the Auditor-General for examination as soon as they have been prepared.

Appropriation Accounts

15. (1) An accounting officer shall as soon as possible, but not later than four months after the close of a financial year, prepare and transmit to the Auditor-General for examination, an appropriation account in respect of such year and in respect of each vote under his or her control and shall at the same time send a copy thereof to the Treasury: Provided that the Auditor-General may, in any case where in his or her opinion it is justifiable, grant extension for the submission of the required account, for such period as in his or her opinion is necessary for the completion thereof. 5 10

(2) In an appropriation account an accounting officer shall in respect of each main division of a vote specify—

(a) on the receipt side thereof the amount appearing for the financial year in question— 15

(i) in the estimate of expenditure and adjustment estimate; and

(ii) authorizations granted in terms of section 7 which have not been appropriated in terms of subsection (2) of that section: Provided that it is clearly distinguished between the receipts referred to in paragraph (i) and this paragraph; 20

(b) on the expenditure side thereof the amount actually expended during the same period: Provided that the amount of any advance by an accounting officer to defray expected expenditure which is not supported by acceptable expenditure vouchers, shall not be included on the expenditure side. 25

(3) Each appropriation account rendered to the Auditor-General shall be accompanied by— 30

(a) explanations of the causes of variation, in excess of two per cent, between expenditure and the amount contemplated in subsection (2)(a);

(b) an indication of the amount of any surplus to be surrendered or of any deficit; 35

(c) a statement to the effect that the preceding financial year's surplus, if any, has been surrendered;

(d) an indication of the aggregate of any balance in a suspense account which may be chargeable to the vote.

(4) Appropriation accounts and particulars furnished in terms of this section, shall be signed by the accounting officer. 40

(5) (a) Whenever a person is charged under section 17(1) with the responsibility of accounting for State moneys and State property in respect of any particular portion of a vote, the particulars relating to that portion shall be dealt with separately in the appropriation account in respect of the vote in question. 45

(b) A person referred to in paragraph (a), shall furnish the accounting officer concerned with sufficient particulars so as to enable him or her to comply with the provisions of subsections (1), (2) and (3).

(5) Sodra die state bedoel in subartikels (3) en (4) opgestel is, moet die Tesourie hulle aan die Ouditeur-generaal vir ondersoek deurstuur.

Appropriasierekenings

15 **15.** (1) 'n Rekenpligte beampte moet so gou moontlik, maar nie later nie as vier maande na die afsluiting van 'n boekjaar, 'n appropriasie-rekening ten opsigte van dié boekjaar en ten opsigte van elke begrotingspos onder sy of haar beheer opstel en aan die Ouditeur-generaal vir ondersoek deurstuur en moet terselfdertyd 'n afskrif daarvan aan die Tesourie stuur: Met dien verstande dat die Ouditeur-generaal, in 'n geval
10 waar dit na sy of haar mening geregverdig is, uitstel vir die indiening van die vereiste rekening kan verleen vir die tydperk wat na sy of haar oordeel nodig is vir die voltooiing daarvan.

(2) 'n Rekenpligte beampte moet in 'n appropriasierekening ten opsigte van elke hoofindeling van 'n begrotingspos—

15 (a) aan die ontvangstekant daarvan die bedrag opgee wat vir die betrokke boekjaar—
(i) in die begroting van uitgawes en 'n aansuiweringsbegroting verskyn; en

20 (ii) magtigings ingevolge artikel 7 verleen wat nog nie ingevolge subartikel (2) van daardie artikel bewillig is nie: Met dien verstande dat duidelik onderskei word tussen ontvangstes bedoel in paragraaf (i) en hierdie paragraaf.

25 (b) aan die uitgawekant daarvan die bedrag opgee, wat gedurende dieselfde tydperk werklik bestee is: Met dien verstande dat die bedrag van 'n voorskot deur 'n rekenpligte beampte om verwagte uitgawes te bestry wat nie deur aanvaarbare bewyse van uitgawe gestaaf word nie, nie aan die uitgawekant ingesluit word nie.

30 (3) Elke appropriasierekening wat by die Ouditeur-generaal ingedien word, moet vergesel wees van—

(a) verduidelikings van die oorsake van 'n verskil, wat twee persent te bowe gaan, tussen uitgawes en die bedrag beoog in subartikel (2)(a);

35 (b) 'n aanduiding van die bedrag van enige surplus wat teruggestort moet word of van enige tekort;

(c) 'n verklaring dat die bedrag van die surplus, as daar was, van die voorafgaande boekjaar teruggestort is;

(d) 'n aanduiding van die som van enige saldo in 'n afwagrekening wat 'n las teen die begrotingspos mag vorm.

40 (4) Appropriasierekenings en besonderhede ingevolge hierdie artikel verstrek, moet deur die rekenpligte beampte onderteken wees.

45 (5) (a) Wanneer iemand kragtens artikel 17(1) met die verantwoording van Staatsgeld en Staatsgoed ten opsigte van 'n bepaalde gedeelte van 'n begrotingspos belas is, moet die besonderhede betreffende daardie gedeelte afsonderlik in die appropriasierekening ten opsigte van die betrokke begrotingspos behandel word.

(b) Iemand in paragraaf (a) bedoel, moet die betrokke rekenpligte beampte van voldoende besonderhede voorsien ten einde hom of haar in staat te stel om aan die bepalings van subartikels (1), (2) en (3) te voldoen.

Accounting officer

16. (1) There shall be an accounting officer for each vote who shall be charged with the responsibility of accounting for all State moneys received, all payments made by him or her and the acquisition, receipt, custody and dispersal of all State property. 5

(2) An accounting officer shall exercise the powers conferred upon him or her and perform the duties assigned to him or her by law, by Regulation, by Instruction or by the Treasury.

(3) Unless, subject to subsection (4), otherwise directed by the Treasury, the accounting officer for— 10

- (a) the vote or votes of a department shall be the head of the department appointed for that department;
- (b) a statutory body for which no accounting officer has been designated under the provisions of any other law, shall be the chief executive officer of such statutory body. 15

(4) Until such time as the Treasury directs otherwise, the Director-General: Provincial Administration: Northern Cape appointed under the Public Service Act, 1994, as head of the Provincial Administration, shall be the accounting officer for all votes.

(5) During the absence of an accounting officer his or her powers shall be exercised and his or her duties performed by the officer acting in his or her place. 20

Responsibility of accounting for State moneys and State property by a person who is not an accounting officer

17. (1) The Treasury, with the concurrence of the Executive Council may notwithstanding the provisions of section 16 charge a person who is not an accounting officer with the responsibility of accounting for— 25

- (a) State moneys received and paid out by that person;
- (b) State property acquired, received, kept or disposed of by that person, in connection with a trading and related account, established under section 12(1), or a particular portion of a vote whereof accounts are kept separately. 30

(2) Whenever a person is charged under subsection (1) with the responsibility of accounting for State moneys and State property in respect of a trading and related account or any particular portion of a vote, the Treasury may assign to such person any or all of the powers and duties referred to in section 16(2) which an accounting officer may exercise or is required to perform in respect of such trading and related account or portion of a vote. 35

(3) A power or duty assigned to a person under subsection (2), shall be exercised or performed by such person in respect of the said trading and related account or portion of a vote to the exclusion of the accounting officer responsible for the vote of which that trading and related account or portion forms part. 40

(4) Whenever a person referred to in subsection (1) is absent, his or her powers shall be exercised and his or her duties performed by the person acting in his or her place. 45

Rekenpligtige beampte

16. (1) Vir elke begrotingspos is daar 'n rekenpligtige beampte wat belas is met die verantwoording van alle Staatsgeld deur hom of haar ontvang, alle betalings deur hom of haar gedoen, en die verkryging, ont-
5 vangs en bewaring van en beskikking oor alle Staatsgeld.

(2) 'n Rekenpligtige beampte oefen die bevoegdhede uit en voer die pligte uit wat by wet, by Regulasie, by Instruksie of deur die Tesourie aan hom of haar verleen of opgedra is.

(3) Tensy die Tesourie, behoudens subartikel (4) anders gelas, is die
10 Rekenpligtige Beampte vir—

(a) die begrotingspos of -poste van 'n departement, die departementshoof wat vir dié departement aangestel is;

(b) 'n statutêre liggaam waarvoor daar nie 'n rekenpligtige beampte kragtens die bepalings van enige ander wet aangewys is nie, die
15 hoof uitvoerende beampte van daardie statutêre liggaam.

(4) Tot tyd en wyl die Tesourie anders gelas, is die Direkteur-generaal: Provinsiale Administrasie: Noord-Kaap wat kragtens die Staatsdienswet, 1994, as hoof van die Provinsiale Administrasie aangestel word, die Rekenpligtige beampte vir alle begrotingsposte.

20 (5) Tydens die afwesigheid van 'n rekenpligtige beampte word sy of haar bevoegdhede uitgeoefen en sy of haar pligte uitgevoer deur die beampte wat in sy of haar plek, waarneem.

Verantwoording van Staatsgeld en Staatsgoed deur iemand wat nie 'n rekenpligtige beampte is nie

25 17. (1) Die Tesourie, met die instemming van die Uitvoerende Raad, kan ondanks die bepalings van artikel 16 iemand wat nie 'n rekenpligtige beampte is nie, belas met die verantwoording van—

(a) Staatsgeld wat deur daardie iemand ontvang en uitbetaal word;

(b) Staatsgoed wat deur daardie persoon verkry, ontvang, bewaar of
30 oor beskik word, in verband met 'n bedryfs- en verwante rekening, ingestel kragtens artikel 12(1), of 'n bepaalde gedeelte van 'n begrotingspos waarvan afsonderlik boek gehou word.

(2) Wanneer iemand kragtens subartikel (1) met die verantwoording van Staatsgeld en Staatsgoed ten opsigte van 'n bedryfs- en verwante
35 rekening of 'n bepaalde gedeelte van 'n begrotingspos belas is, kan die Tesourie enige of al die bevoegdhede en pligte in artikel 16(2) bedoel wat 'n rekenpligtige beampte ten opsigte van sodanige bedryfs- en verwante rekening of gedeelte van 'n begrotingspos kan uitoefen of moet verrig, aan so iemand opdra.

40 (3) 'n Bevoegdheid of plig aan iemand kragtens subartikel (2) opgedra, word deur so iemand ten opsigte van die betrokke bedryfs- en verwante rekening of gedeelte van 'n begrotingspos uitgeoefen of verrig tot uitsluiting van die rekenpligtige beampte wat vir die begrotingspos waarvan daardie bedryfs- en verwante rekening of gedeelte deel uitmaak, verant-
45 woordelik is.

(4) Wanneer iemand in subartikel (1) bedoel afwesig is, word sy of haar bevoegdhede uitgeoefen en sy of haar pligte verrig deur die persoon wat in sy of haar plek waarneem.

CHAPTER II

GENERAL FINANCIAL CONTROL

Other powers of the Treasury

- 18.** (1) Subject to the provisions of this Act and any other law, the Treasury shall have the power to— 5
- (a) give guidance in, and exercise control over, State moneys and other State property to bring about the systematic and orderly management thereof and to promote efficiency and economy in the utilization thereof;
 - (b) direct that such expenditure charged against the Provincial Revenue Account, as it may determine, shall not be incurred without its approval having been obtained; 10
 - (c) approve fees or other charges or the rates, scales or tariffs of fees or other charges not fixed or capable of being fixed by or in terms of any law and relating to Revenue accruing to or expenditure from the Provincial Revenue Fund, and to direct that no such fee or charge or rate, scale or tariff thereof shall be introduced before the approval of the Treasury has been obtained; 15
 - (d) grant approval for the rendering of a free service;
 - (e) grant approval for the write-off of a loss of State moneys and other State property; 20
 - (f) grant approval for the variation or cancellation of contracts to the detriment of the State;
 - (g) require accounting officers to submit particular inputs in respect of budget matters to it and in respect of such inputs— 25
 - (i) to analyze them and make recommendations thereabout to the responsible Member, and
 - (ii) to make them or processed information thereof available to the National Treasury on its request;
 - (h) require any accounting officer to submit to it information, returns, documents, explanations and motivations in regard to any matter affecting State moneys or other State property; 30
 - (i) grant approval for the settlement of a claim by or against the Province or for the waiver of a claim by the Province;
 - (j) authorise or condone non-compliance by an accounting officer with an instruction or other written request, stipulation or condition of the Treasury in connection with any matter; 35
 - (k) investigate and inspect systems for the control over, and administration of, State moneys and other State property;
 - (l) determine against which vote or subdivision thereof expenditure on a service should be charged; 40
 - (m) determine the terms and conditions on which Revenue due to the Province may be paid and on which State moneys may be disbursed;
 - (n) approve remissions, as an act of grace, of moneys due to the Province; 45

HOOFSTUK II

ALGEMENE FINANSIËLE BEHEER

Ander bevoegdheid van die Tesourie

5 18. (1) Behoudens die bepalings van hierdie Wet en enige ander wet, het die Tesourie die bevoegdheid om—

- (a) leiding te gee in, en beheer uit te oefen oor, Staatsgeld en ander Staatsgoed ten einde die sistematiese en ordelike bestuur daarvan te bewerkstellig en doeltreffendheid en besuiniging by die aanwending daarvan te bevorder;
- 10 (b) te gelas dat die uitgawes ten laste van die Provinsiale Inkomsterekening, wat dit bepaal, nie aangegaan mag word nie sonder dat goedkeuring verkry is;
- (c) gelde of ander vorderings of die koerse, skale of tariewe van gelde of ander vorderings wat nie by wet bepaal is of bepaal kan word nie en wat betrekking het op inkomste wat die Provinsiale Inkomstefonds toeval of op uitgawes daaruit, goed te keur en te
15 gelas dat geen sodanige gelde of vorderings of koers, skaal of tarief daarvan in werking gestel word nie voordat die Tesourie se goedkeuring verkry is;
- 20 (d) goedkeuring te verleen vir die lewering van 'n gratis diens;
- (e) goedkeuring te verleen vir afskrywing van 'n verlies van Staatsgeld en ander Staatsgoed;
- (f) goedkeuring te verleen dat kontrakte tot die nadeel van die Staat gewysig of opgesê word;
- 25 (g) te eis dat rekenpligtige beamptes bepaalde insette ten opsigte van begrotingsaangeleenthede voorlê en sulke insette—
 - (i) ontleed en aanbevelings daaroor aan die verantwoordelike Lid doen;
 - 30 (ii) of verwerkings daarvan aan die Nasionale Tesourie op versoek beskikbaar stel;
- (h) te eis dat 'n rekenpligtige beampte inligting, opgawes, stukke, verduidelikings en motiverings met betrekking tot enige aangeleentheid van Staatsgeld of ander Staatsgoed raak, voorlê;
- 35 (i) goedkeuring te verleen vir die skikking van 'n eis deur of teen die Provinsie of vir die afstanddoening van 'n eis deur die Provinsie;
- (j) nie-nakoming, deur 'n rekenpligtige beampte, van 'n instruksie of ander geskrewe versoek, bepaling of voorwaarde van die Tesourie in verband met die een of ander aangeleentheid te magtig of te kondoneer;
- 40 (k) stelsels vir die beheer oor, en bestuur van Staatsgeld en ander Staatsgoed te ondersoek en te inspekteer;
- (l) te bepaal watter begrotingspos of onderindeling daarvan met 'n uitgawe aan 'n diens belas moet word;
- 45 (m) die terme te bepaal waarop Inkomste wat aan die Provinsie verskuldig is, betaal kan word, en die voorwaardes te bepaal waarop Staatsgeld bestee kan word;
- (n) goedkeuring te verleen dat geld wat aan die Provinsie verskuldig is, by wyse van gracie kwytskeld word;

- (o) approve refunds of Revenue as an act of grace;
- (p) approve payments, as an act of grace, from State moneys;
- (q) approve gifts of State moneys and other movable State property or the acceptance of gifts to the Province;
- (r) approve the alienation, letting or other disposal of movable State property; 5
- (s) afford guidance in the handling of and exercise control over all trust money and trust property temporarily deposited or left in the care of an accounting officer or other person in the service of the Province; 10
- (t) give guidance in the application of norms and standards prescribed by the National Treasury in respect of improvements to immovable property financed in full or in part from the Provincial Revenue Fund;
- (u) approve acceptance of sponsorships to the Province: 15

Provided that when the amount involved in any case contemplated in paragraph (n), (o), (p) or (q), other than any such case in connection with movable State property, exceeds R100 000 or relates to a tax, other duty or impost imposed by law, such remission, refund, payment or gift shall not be made unless moneys for the purpose have been appropriated by the Provincial legislature: Provided further that if, in the opinion of the Treasury the circumstance connected with the payment of any such tax, other duty or impost justify a refund as an act of grace of the whole or a portion of the amount in question, the Treasury may approve such refund to an amount, not exceeding R100 000, as a charge against the vote concerned. 20 25

(2) The Treasury may in its discretion approve the write-off of the whole or any portion of an amount owing to the Province by a person, if it is satisfied that—

- (a) the amount is irrecoverable;
- (b) recovery of the amount would be uneconomical; 30
- (c) recovery of the amount would cause undue hardship to the debtor or his or her dependents because they are deprived of the minimum essential means of livelihood;
- (d) the assets of the debtor or of the estate of the debtor, if he or she is deceased, (whether or not such assets are pledged to the State) are indispensable to his or her dependents or are of relatively little value, and the debtor or his or her estate, as the case may be, is unable to pay the amount or any portion thereof, except by the disposal of such assets and such disposal would cause undue hardship; or 35 40
- (e) it would be to the advantage of the Province to effect a settlement of its claim in question or to waive such claim.

(3) Whenever a power is conferred by any law to determine any rate, scale, tariff, fee or charge for the purposes of any Revenue accruing to, or expenditure from, the Provincial Revenue Fund, such a determination 45

- 5 (o) terugbetalings van Inkomste by wyse van gracie goed te keur;
(p) betalings uit Staatsgeld by wyse van gracie goed te keur;
(q) goedkeuring te verleen dat skenkings van Staatsgeld en ander roerende Staatsgoed gedoen kan word of dat skenkings aan die Provinsie ontvang kan word;
(r) goedkeuring te verleen vir die vervreemding of verhuring van of die ander beskikking oor roerende Staatsgoed;
10 (s) leiding te gee in die hantering van en beheer uit te oefen oor alle trustgeld en trustgoed wat tydelik by 'n rekenpligtige beampte of ander persoon in diens van die Provinsie gedeponeer of gelaat is;
(t) leiding te gee by die toepassing van norme en standaarde deur die Nasionale Tesourie voorgeskryf ten opsigte van verbeterings aan onroerende eiendom wat geheel of gedeeltelik uit die Provinsiale Inkomstefonds gefinansier word;
15 (u) goedkeuring te verleen dat borgskappe aan die Provinsie ontvang kan word;

Met dien verstande dat wanneer die bedrag betrokke by 'n geval beoog in paragraaf (n), (o), (p) of (q), uitgesonderd so 'n geval in verband met roerende Staatsgoed, R100 000 oorskry, of betrekking het op 'n belasting, ander reg of heffing wat by wet opgelê is, sodanige kwytskelding terugbetaling, betaling of skenking nie gedoen word nie tensy geld vir dié doel deur die Provinsiale wetgewer bewillig is: Met dien verstande voorts dat indien die omstandighede verbonde aan die betaling van so 'n belasting, ander reg of heffing na die oordeel van die Tesourie 'n terugbetaling by 25 wyse van gracie van die geheel of 'n gedeelte van die betrokke bedrag regverdig, die Tesourie sodanige terugbetaling tot hoogstens R100 000 as 'n las teen die betrokke begrotingspos kan goedkeur.

(2) Die Tesourie kan na goeddunke goedkeur dat 'n bedrag wat deur 30 iemand aan die Provinsie verskuldig is, in die geheel of ten dele afgeskryf word, indien die Tesourie oortuig is dat—

- (a) die bedrag oninbaar is;
(b) invordering van die bedrag onekonomies sou wees;
35 (c) invordering van die bedrag die skuldenaar of sy of haar afhanklikes oormatige ontbering sal veroorsaak deurdat hulle die minimum bestaansbenodighede ontnem word;
(d) die bates van die skuldenaar of van die boedel van die skuldenaar, indien hy of sy oorlede is, (hetsy sodanige bates aan die Staat verpand is al dan nie) vir sy of haar afhanklikes onmisbaar 40 is of van betreklik geringe waarde is en die skuldenaar of sy of haar boedel na gelang van die geval, nie in staat is om die bedrag of 'n gedeelte daarvan te betaal nie, behalwe deur sodanige bates van die hand te sit en sodanige van die handsetting oormatige ontbering sal veroorsaak; of
45 (e) dit tot voordeel van die Provinsie strek om 'n skikking van sy betrokke eis aan te gaan of van dié eis afstand te doen.

(3) Wanneer 'n bevoegdheid by wet verleen word om 'n koers, skaal, tarief, gelde of vordering te bepaal vir die doeleindes van inkomste wat toeval aan, of uitgawe uit die Provinsiale Inkomstefonds, word so 'n bepa-

shall, notwithstanding the provisions of such law, not be made before the approval of the Treasury therefor has been obtained: Provided that the provisions of this subsection shall not apply to any tax or such a determination by the Premier.

(4) Where a voucher or other proof of receipt or payment is in any way defective or has been lost or destroyed and— 5

- (a) the Treasury in the case of accounts of accounting officers and other persons in the service of the province;
- (b) subject to the provisions of any other law, the executive authority of a statutory body in the case of accounts of such statutory body, 10

is satisfied with the explanation of the responsible person, the Treasury, or the executive authority of a statutory body, as the case may be, may make an order dispensing with the production of a voucher or such other proof or may make such other order as may appear just in the circumstances. 15

Delegation of powers of the Treasury

19. (1) The Treasury may on such conditions as it may determine, delegate to an accounting officer any power conferred upon it by section 18(1) and (2) or 21(5).

(2) Where the Treasury has delegated any power under subsection (1), it may authorize the accounting officer concerned to further delegate that power to the holder of any post designated by the Treasury. 20

(3) An accounting officer shall not be divested of any power delegated by him or her and may amend or withdraw any decision made in the exercise of that power. 25

(4) The Treasury shall not be divested of a power delegated by it or under its authority and may amend or withdraw any decision made in the exercise of such power, including a decision of an accounting officer whereby a decision contemplated in subsection (3) is amended or withdrawn.

(5) Where any power has been delegated to the holder of a post, that power may be exercised by the person who for the time being performs the functions attached to such post. 30

Unauthorized expenditure

20. (1) An expenditure concerned shall be unauthorized if— 35

- (a) a payment is made by an accounting officer without provision having been made therefor by or by virtue of the provisions of any law;
- (b) a payment or part of a payment on a service authorized by an appropriation Act results in— 40
 - (i) the total amount appropriated for the vote concerned, regard being had to any increase referred to in section 6(2), being exceeded;
 - (ii) a prohibition, by virtue of the provisions of section 5(3), on the expenditure being brought to account as a final debit; or 45

ling, ondanks die bepalings van daardie wet, nie gedoen nie voordat die goedkeuring van die Tesourie daarvoor verkry is: Met dien verstande dat die bepalings van hierdie subartikel nie op belasting of so 'n bepaling deur die Premier van toepassing is nie.

5 (4) Waar 'n bewysstuk of ander bewys van ontvangste of betaling in enige opsig gebrekkig, verloor of vernietig is en—

(a) die tesourie in die geval van rekenings van rekenpligtige beamptes en ander persone in diens van die provinsie;

10 (b) behoudens die bepalings van enige ander wet, die uitvoerende bestuur van 'n statutêre liggaam, in die geval van rekenings van sodanige statutêre liggaam,

genoeë neem met die verduideliking van die verantwoordelike persoon, kan die Tesourie, of die uitvoerende bestuur van 'n statutêre liggaam, na gelang van die geval, 'n bevel gee waarby van die voorlegging van 'n

15 bewysstuk of sodanige ander bewys afgesien word of 'n ander bevel gee wat in die omstandighede billik is.

Delegasie van bevoegdhede van die Tesourie

19. (1) Die Tesourie kan 'n bevoegdheid wat by artikel 18(1) en (2) of 21(5) daaraan verleen is, op die voorwaardes deur dit bepaal, aan 'n
20 rekenpligtige beampte deleger.

(2) Waar die Tesourie 'n bevoegdheid kragtens subartikel (1) gedelegeer het, kan dit die betrokke rekenpligtige beampte magtig om daardie bevoegdheid verder te deleger aan die bekleër van 'n pos deur die Tesourie aangewys.

25 (3) 'n Rekenpligtige beampte word nie ontdoen van 'n bevoegdheid deur hom of haar gedelegeer nie, en kan 'n beslissing gegee by die uitoefening van daardie bevoegdheid wysig of intrek.

(4) Die Tesourie word nie ontdoen van 'n bevoegdheid deur dit of kragtens magtiging gedelegeer nie en kan 'n beslissing gegee by die uitoefening van dié bevoegdheid, met inbegrip van 'n beslissing van 'n rekenpligtige beampte waarby 'n beslissing beoog in subartikel (3) gewysig of ingetrek word, wysig of intrek.
30

(5) Waar 'n bevoegdheid aan die bekleër van 'n pos gedelegeer is, kan daardie bevoegdheid uitgeoefen word deur die persoon wat te eniger
35 tyd die werksaamhede wat aan daardie pos verbonde is, verrig.

Ongemagtigde uitgawes

20. (1) 'n Betrokke uitgawe is ongemagtig indien—

40 (a) 'n uitbetaling deur 'n rekenpligtige beampte gedoen word sonder dat voorsiening daarvoor by of uit hoofde van die bepalings van 'n wet gemaak is;

(b) 'n uitbetaling of gedeelte van 'n uitbetaling aan 'n diens wat by 'n Begrotingswet gemagtig is, meebring dat—

45 (i) die totale bedrag bewillig op die betrokke begrotingspos, met inagneming van 'n verhoging bedoel in artikel 6(2), oorskry word;

(ii) die uitgawe uit hoofde van die bepalings van artikel 5(3) nie as 'n finale debiet geboek mag word nie; of

- (iii) the amount shown in "Column 2" of the schedule to an appropriation Act in respect of a service being exceeded and an authority referred to in section 7(1)(b)(ii) has not been obtained, or an increase referred to in section 6(2) has not been made therefor; 5
 - (c) an accounting officer is unable to produce to the Auditor-General in respect of a payment an appropriate Treasury authority required in terms of the provisions of this Act or any other law;
 - (d) an accounting officer makes a payment inconsistent with a provision of any law. 10
- (2) Unauthorized expenditure contemplated in subsection (1) shall not form a charge against the Provincial Revenue Fund until—
 - (a) in the case of paragraph (a), (b) or (c) of that subsection, the expenditure concerned has been authorized by a law of the Provincial legislature; or 15
 - (b) in the case of paragraph (d) of that subsection, the expenditure concerned has been validated by a law of the Provincial legislature.
- (3) Unauthorized expenditure or any part thereof determined by the Provincial legislature which has not been authorized or validated as contemplated in subsection (2), shall, if the accounting officer cannot or is unwilling to recover the amount concerned from the beneficiary or the person responsible for the unauthorized expenditure, be recovered by the Treasury from the accounting officer. 20
- (4) The provisions of paragraphs (a), (c) and (d) of subsection (1) shall *mutatis mutandis* apply in respect of a statutory body unless otherwise provided by law, and for the purposes of paragraph (c) a reference to Treasury authority shall be construed as a reference also to an authority of a member of the Executive Council, or an executive authority or any other applicable authority, as the case may be. 25 30
- (5) Unauthorized expenditure referred to in subsection (4) or any part thereof determined by the Provincial legislature shall not form a charge against a fund or account concerned until it has been authorized, validated or made available in accordance with the normal budgetary procedure applicable to the fund or account concerned: Provided that any unauthorized expenditure which has not been authorized or validated shall be recovered from the accounting officer if he or she cannot or is unwilling to recover the amount concerned from the beneficiary or the person responsible for the unauthorized expenditure. 35

Recovery of losses and damages 40

21. (1) If a person who is or was in the employ of the Provincial Administration caused the Province a loss or damage because he or she—

- (a) failed to collect State moneys for the collection of which he or she is or was responsible;
- (b) is or was responsible for an irregular payment of State moneys or for a payment of such moneys not supported by a proper voucher; 45

- (iii) die bedrag wat ten opsigte van 'n diens in "Kolom 2" van die bylae by 'n Begrotingswet aangetoon is, oorskry word en daar nie 'n magtiging bedoel in artikel 7(1)(b)(ii) verkry of 'n verhoging bedoel in artikel 6(2) gemaak, daarvoor is nie;
- 5 (c) 'n toepaslike Tesourie-magtiging wat ingevolge die bepalings van hierdie Wet of 'n ander wet vereis word, nie deur 'n rekenpligtige beampte aan die Ouditeur-generaal ten opsigte van 'n uitbetaling voorgelê kan word nie;
- 10 (d) 'n rekenpligtige beampte 'n uitbetaling strydig met 'n bepaling van die een of ander wet doen.
- (2) 'n Ongemagtigde uitgawe bedoel in subartikel (1) maak nie 'n debiet teen die Provinsiale Inkomstefonds uit nie alvorens—
- 15 (a) in die geval van paragraaf (a), (b) of (c) van daardie subartikel die betrokke uitgawe by wet van die Provinsiale wetgewer gemagtig is; of
- (b) in die geval van paragraaf (d) van daardie subartikel, die betrokke uitgawe by wet van die Provinsiale wetgewer geldig verklaar word.
- (3) Ongemagtigde uitgawes of enige gedeelte daarvan deur die Provinsiale wetgewer bepaal, wat nie gemagtig of geldig verklaar word nie soos in subartikel (2) beoog, moet deur die Tesourie op die rekenpligtige beampte verhaal word indien die rekenpligtige beampte nie die betrokke bedrag van die begunstigde of die persoon verantwoordelik vir ongemagtigde uitgawe, kan of wil verhaal nie.
- 20 (4) Die bepalings van paragraawe (a), (c) en (d) van subartikel (1) is *mutatis mutandis* van toepassing ten opsigte van 'n statutêre liggaam tensy anders by wet bepaal, en by die toepassing van paragraaf (c) word 'n verwysing na Tesourie-magtiging uitgelê ook as 'n verwysing na 'n magtiging van 'n lid van die Uitvoerende Raad, of 'n uitvoerende bestuur of 'n
- 30 ander toepaslike magtiging, na gelang van die geval.
- (5) Ongemagtigde uitgawes bedoel in subartikel (4) of enige gedeelte daarvan deur die Provinsiale wetgewer bepaal, maak nie 'n debiet teen 'n betrokke fonds of rekening uit nie totdat dit volgens die normale begrotingsprosedure wat op die betrokke fonds of rekening van toepassing
- 35 is, gemagtig, geldig verklaar of beskikbaar gestel word: Met dien verstande dat enige ongemagtigde uitgawe wat nie gemagtig of geldig verklaar word nie op die rekenpligtige beampte verhaal moet word indien hy of sy nie die betrokke bedrag van die begunstigde of die persoon verantwoordelik vir die ongemagtigde uitgawe, kan of wil verhaal nie.

40 Verhaal van verliese en skade

21. (1) Indien iemand wat in diens van die Provinsiale Administrasie is of was die Provinsie 'n verlies of skade berokken het deurdat hy of sy—

- 45 (a) versuim het om Staatsgeld vir die invordering waarvan hy of sy verantwoordelik is of was, in te vorder;
- (b) vir 'n onreëlmatige uitbetaling van Staatsgeld of vir 'n uitbetaling van sodanige geld wat nie deur 'n behoorlike bewysstuk gestaaf word nie, verantwoordelik is of was;

- (c) is or was responsible for fruitless expenditure of State moneys due to an omission to carry out his or her duties;
- (d) is or was responsible for a deficiency in, or for the destruction of, or damage to, State moneys, stamps, face-value documents and forms having a potential value, securities, equipment, stores or any other State property; 5
- (e) due to an omission to carry out his or her duties or in any other manner, is or was responsible for a claim against the Province,

the accounting officer concerned or the holder of a post designated by the Treasury shall determine the amount of such loss or damage or the amount necessary to replace State property in which there is a deficiency or which was destroyed, as prescribed by the Instructions and, subject to the provisions of subsection (5), order, by notice in writing, the said person to pay to him or her, within thirty days from the date of such notice, the amount so determined. 15

(2) If a person who is in the employ of the Provincial Administration and who has in terms of subsection (1) been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the amount shall, subject to the provisions of subsections (4), (6) and (7), be deducted from his or her monthly salary: Provided that such deduction shall not in any month exceed one-fourth of his or her monthly salary, unless such a person agrees, in writing, that a larger amount may be deducted. 20

(3) If a person who was in the employ of the Provincial Administration and who has, in terms of subsection (1), been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the accounting officer concerned shall, subject to the provisions of subsections (4), (6) and (7), recover such amount from the person concerned by legal process. 25

(4) If a person who has been ordered to pay an amount in terms of subsection (1) makes, within the period stipulated in the notice in question, an offer to pay the amount in instalments, the accounting officer, or the holder of a post designated by the Treasury, may allow payment in such instalments as he or she may consider reasonable: Provided that if the redemption of the amount in terms of the offer will not be effected within a period of twelve months, calculated from the date on which the first instalments is payable, the approval of the Treasury shall be obtained for the payment thereof over a period in excess of the period mentioned, and the Treasury may determine the other terms and conditions subject to which the amount shall be paid. 30 35 40

(5) If for any reason whatsoever, an accounting officer, or the holder or a post designated by the Treasury, is of the opinion that an amount determined in terms of subsection (1) should not be recovered or should be recovered in part only from the person responsible therefor, he or she may request the Treasury to exempt that person from payment of the whole or a portion of such amount, and the Treasury may in its discretion approve of the whole or a portion of such amount not being recovered. 45

- (c) weens versuim om sy of haar pligte uit te voer, vir 'n vrugtelose uitgawe van Staatsgeld verantwoordelik is of was;
- (d) vir 'n tekort in, of 'n vernietiging of beskadiging van Staatsgeld, seëls, sigwaardestukke en vorms wat 'n potensiële waarde het, sekuriteite, uitrusting, voorrade of ander Staatsgoed verantwoordelik is of was;
- (e) weens versuim om sy of haar pligte uit te voer of op enige ander wyse, vir 'n eis teen die Provinsie verantwoordelik is of was,

moet die betrokke rekenpligtige beampte, of die bekleër van 'n pos deur die Tesourie aangewys, die bedrag van sodanige verlies of skade of die bedrag ter vervanging van die Staatsgoed waarin daar die tekort is of wat vernietig is, soos by die Instruksie voorgeskryf, vasstel en, behoudens die bepalings van subartikel (5), genoemde persoon by skriftelike kennisgewing gelas om die bedrag wat aldus vasgestel is, binne dertig dae vanaf die datum van die kennisgewing aan hom of haar te betaal.

(2) Indien iemand wat in diens van die Provinsiale Administrasie is en wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, versuim om dié bedrag te betaal binne die tydperk in die betrokke kennisgewing bepaal, word dié bedrag, behoudens die bepalings van subartikels (4), (6) en (7), van sy of haar maandelikse salaris afgetrek: Met dien verstande dat so 'n aftrekking nie in een maand meer as een-vierde van sy of haar maandelikse salaris mag beloop nie, tensy so 'n persoon skriftelik toestem dat 'n groter bedrag afgetrek word.

(3) Indien iemand wat in diens van die Provinsiale Administrasie was en wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, versuim om dié bedrag te betaal binne die tydperk in die betrokke kennisgewing bepaal, moet die betrokke rekenpligtige beampte, behoudens die bepalings van subartikels (4), (5) en (7), dié bedrag deur middel van geregtelike prosedure op dié persoon verhaal.

(4) Indien iemand wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, binne die tydperk in die betrokke kennisgewing bepaal, aanbied om dié bedrag in paaie te betaal, kan die rekenpligtige beampte, of die bekleër van 'n pos deur die Tesourie aangewys, hom of haar toelaat om te betaal in die paaie wat, na hy of sy meen, redelik is: Met dien verstande dat indien die delging van die bedrag ingevolge die aanbod nie binne 'n tydperk van twaalf maande, gereken vanaf die datum waarop die eerste paaie betaalbaar is, sal geskied nie, die Tesourie se goedkeuring verkry moet word om dié bedrag oor 'n langer tydperk as genoemde tydperk te betaal, en die Tesourie die ander voorwaardes waarop dié bedrag betaal moet word, kan bepaal.

(5) Indien 'n rekenpligtige beampte, of die bekleër van 'n pos deur die Tesourie aangewys, om watter rede ook al, van mening is dat 'n bedrag ingevolge subartikel (1) vasgestel nie verhaal behoort te word nie of slegs ten dele verhaal behoort te word op die persoon wat daarvoor verantwoordelik is, kan hy of sy die Tesourie versoek om daardie persoon betaling van die geheel of 'n gedeelte van daardie bedrag kwyt te skeld, en die Tesourie kan na goeë dinge goedkeur dat die geheel of 'n gedeelte van daardie bedrag nie verhaal word nie.

(6) A person who has in terms of subsection (1) been ordered to pay an amount may, within a period of thirty days from the date of such order, in writing request the accounting officer concerned, stating the grounds for his or her request, that a request as contemplated in subsection (5), be addressed to the Treasury, and if the accounting officer concerned refuses to address such a request to the Treasury or if the Treasury refuses to approve, as contemplated in the said subsection, of the whole or a portion of the amount in question not being recovered as requested, such person may within thirty days after he or she has been notified in writing of any such refusal, appeal against such refusal to the responsible Member, and the responsible Member may, after such further investigation as he or she may deem necessary, dismiss the appeal or order that the appellant be exempted either wholly or partly, according as he or she may consider fair and reasonable, from the payment of such amount. 5 10

(7) A person who has in terms of subsection (1) been ordered to pay an amount may, instead of appealing to the responsible Member under subsection (6), apply within a period of thirty days from the date of such order, or within such further period as the court may allow, to a competent court for an order setting aside such first-mentioned order or reducing that amount, as the case may be. 15 20

(8) If an amount is in terms of subsection (5), (6) or (7) reduced, the reduced amount shall *mutatus mutandis* be recovered in accordance with with the provisions of subsections (1), (2), (3) and (4).

Guarantees in respect of loans

22. (1) The responsible Member, or another Member of the Executive Council with the concurrence of the responsible Member, can, subject to the provisions of section 157(3) of the Constitution and this section, on application furnish a guarantee in respect of the financial obligations arising from a loan granted or to be granted by a local government, board or body established by or under any law. 25 30

(2) A guarantee contemplated in subsection (1) is accompanied by a written recommendation of the executive authority of the relevant local authority, board or body that the desired guarantee may be furnished under this section.

(3) A guarantee contemplated in subsection (1) is not furnished unless the responsible Member or other Member of the Executive Council in concurrence with the responsible Member, is, on the basis of the information supplied by the local government, board or body, satisfied that— 35

- (a) the proceeds of the loan so guaranteed— 40
 - (i) shall be employed in the public interest within the area of jurisdiction of the local government or within the province in the case of a board or body;
 - (ii) shall not be employed for the financing of current expenditure; 45

- (6) Iemand wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, kan binne 'n tydperk van dertig dae van die datum van die lasgewing, die betrokke rekenpligtige beampte skriftelik versoek, met opgaaf van die gronde vir sy of haar versoek, soos beoog in subartikel (5), tot die Tesourie te rig, en indien die betrokke rekenpligtige beampte weier om so 'n versoek tot die Tesourie te rig of die Tesourie weier om, soos beoog in genoemde subartikel, goed te keur dat die geheel of gedeelte van die betrokke bedrag nie verhaal word nie, soos versoek, kan so iemand binne dertig dae nadat hy of sy skriftelik van enige sodanige weiering in kennis gestel is, by die verantwoordelike Lid appél daarteen aanteken, en die verantwoordelike Lid kan, na die verdere ondersoek wat hy of sy nodig ag, die appél verwerp of gelas dat die appellant geheel en al of ten dele, na gelang van wat hy of sy billik en redelik ag, van die betaling van daardie bedrag kwytgeskeld word.
- (7) Iemand wat ingevolge subartikel (1) gelas is om 'n bedrag te betaal, kan in plaas van kragtens subartikel (6) by die verantwoordelike Lid appél aan te teken, by 'n bevoegde hof aansoek doen, binne 'n tydperk van dertig dae van die datum van die lasgewing, of binne die verdere tydperk wat die hof toelaat, om 'n bevel waarby die lasgewing ter syde gestel of daardie bedrag verminder word, en die hof kan op so 'n aansoek, indien dit nie deur die betrokke rekenpligtige beampte aan die hand van omstandighede van die geval oortuig word nie dat die lasgewing tereg opgelê is of dat daardie bedrag juis is, 'n bevel uitreik waarby die lasgewing ter syde gestel word of dié bedrag verminder word, na gelang van die geval.
- (8) Indien 'n bedrag ingevolge subartikel (5), (6) of (7) verminder word, word die verminderde bedrag *mutatis mutandis* ooreenkomstig die bepalinge van subartikels (1), (2), (3) en (4) verhaal.

Waarborge ten opsigte van lenings

22. (1) Die verantwoordelike Lid, of 'n ander Lid van die Uitvoerende Raad met die instemming van die verantwoordelike Lid, kan, behoudens artikel 157(3) van die Grondwet en hierdie artikel, op aansoek 'n waarborg verskaf vir die finansiële verpligtinge voortspruitend uit 'n lening toegestaan of toegestaan te word deur 'n plaaslike regering, raad of liggaam wat by of kragtens 'n Wet ingestel is.
- (2) 'n Aansoek beoog in subartikel (1) moet vergesel wees van 'n skriftelike aanbeveling deur die uitvoerende gesag van die betrokke plaaslike regering, raad of liggaam dat die verlangde waarborg verskaf kan word kragtens hierdie artikel.
- (3) 'n Waarborg beoog in subartikel (1) word nie verskaf nie tensy die verantwoordelike Lid of ander Lid van die Uitvoerende Raad met die instemming van die verantwoordelike Lid, op grond van inligting verskaf deur die plaaslike regering, raad of liggaam, oortuig is dat—
- (a) die opbrengs van die beoogde lening—
- (i) in die openbare belang aangewend sal word binne die regsgebied van die betrokke plaaslike regering of binne die gebied van die Provinsie in die geval van 'n raad of liggaam;
- (ii) nie vir die finansiering van lopende uitgawes aangewend sal word nie;

- (iii) shall, in the case of a guarantee granted in respect of a loan by a local government, be employed in accordance with the provisions of any law passed in the province covering borrowing by a local government;
 - (iv) if the loan is denominated and payable in rand, the proceeds shall not be expended on imported capital goods. 5
- (b) a responsible member, on the basis of information supplied to him or her by the executive authority of the local government, board or body concerned, as the case may be, satisfy himself or herself as to the fact that— 10
 - (i) the funds which are required can not be obtained by means other than a guaranteed loan;
 - (ii) no doubt reasonably exists that the local government or board or body concerned will be able to comply with the conditions and obligations under which the loan will be granted; 15
 - (iii) the provisions of the loan agreement concerned—
 - (aa) complies with the generally accepted principles of loan agreements;
 - (bb) will be legally and technically correct; and
 - (cc) will fully enunciate the obligations of the Province 20 which will act as guarantor and the manner in which expenditure which the Province may have to make in terms of the guarantee will be recovered;
 - (iv) taking into account the fact that a guarantee for the loan is required, the cost of the loan will at least be market related; 25
 - (v) the availability of the loan proceeds will not be prejudicial to financial discipline within the local government, board or body concerned; and
 - (vi) if the loan is denominated and payable in rand, the proceeds shall not be expended on imported capital goods. 30
- (4) The responsible Member shall as soon as possible but in any case not later than six months after the closing of the financial year, cause a statement to be published in the *Provincial Gazette* indicating in respect of each guarantee furnished by the Province in terms of subsection (1), the name of the local government, board or body of which a guarantee has 35 been furnished, the amount of the commitments which may ensue from each such guarantee, and, if foreign currency is so involved, the relative amount and the financial year in which the relevant guarantee will expire.
- (5) The payment by the Province of legitimate claims arising from a guarantee furnished in terms of the provisions of subsection (1)— 40
 - (a) shall be deemed to have been appropriated for such purposes; and
 - (b) shall be reported to the Provincial legislature by the responsible Member as soon as possible, but not later than six months after such payment was made, and he or she shall simultaneously 45 present to the Provincial legislature a report containing the circumstances relating to such payment.

- (iii) in die geval van 'n waarborg verskaf vir 'n lening deur 'n plaaslike regering aangewend word ooreenkomstig die bepalings van enige wet van die Provinsie, wat van toepassing is op die leen van geld deur 'n plaaslike regering;
- 5 (iv) indien die lening aangedui se denominasie in rand is en ook betaalbaar is in hierdie geldeenheid, sal die opbrengste nie op ingevoerde kapitaalgoedere bestee word nie.
- (b) 'n verantwoordelike lid moet op grond van inligting aan hom of haar verskaf deur die uitvoerende gesag van die plaaslike regering, raad of liggaam, na gelang van die geval, oortuig wees dat—
- 10 (i) die fondse wat benodig word, nie op ander wyses as deur 'n gewaarborgde lening verkry kan word nie;
- (ii) daar geen redelike twyfel bestaan nie dat die betrokke plaaslike regering, raad of liggaam, aan die voorwaardes en verpligtinge verbonde van die lening, sal kan voldoen;
- 15 (iii) die voorwaardes verbonde aan die betrokke lening—
- (aa) voldoen aan die algemeen aanvaarde beginsels van leningsooreenkomste;
- 20 (bb) regtens en tegnies korrek sal wees; en
- (cc) ten volle die verpligtinge van die Provinsie wat as waarborggewer optree, sal formuleer, en die wyse waarop uitgawes aangegaan deur die Provinsie kragtens sodanige waarborg, verhaal sal word;
- 25 (iv) met inagneming daarvan dat 'n waarborg vir die lening benodig word, moet die koste van die lening markverwant wees;
- (v) die beskikbaarheid van die leningsopbrengste nie tot nadeel van finansiële dissipline in die plaaslike regering, raad, of
- 30 (vi) indien die lening aangedui se denominasie in rand is en ook betaalbaar is in hierdie geldeenheid, sal die opbrengste nie op ingevoerde kapitaalgoedere bestee word nie.
- (4) Die verantwoordelike Lid moet so spoedig moontlik, maar nie later nie as ses maande na die einde van die boekjaar, 'n verslag in die
- 35 *Provinsiale Koerant* laat publiseer, waarin ten opsigte van elke waarborg verskaf deur die Provinsie kragtens subartikel (1) aangedui word die naam van die plaaslike regering, raad of liggaam aan wie 'n waarborg verskaf is, die bedrag van die verpligtinge wat uit elke waarborg kan voortspruit en, indien buitelandse valuta betrokke is, die betrokke bedrag en die boekjaar
- 40 waarin die betrokke waarborg sal verval.
- (5) Die betaling deur die Provinsie van regmatige eise voortspruitende uit 'n waarborg verskaf kragtens die bepalings van subartikel (1)—
- (a) word geag by 'n Wet bewillig te wees vir sodanige doeleindes;
- 45 en
- (b) moet so gou doenlik maar nie later as ses maande nadat die betaling gedoen is aan die Provinsiale wetgewer gerapporteer word deur die verantwoordelike Lid, wat terselfertyd verslag aan die Provinsiale wetgewer oor die omstandighede rakende sodanige betaling moet doen.
- 50

(6) In the application of this section "other member" shall be construed as a reference to the member of the Executive Council who administers a department which is directly or indirectly involved with the matter underlying the expenditure of the proceeds of the loan in respect of which a guarantee was furnished in terms of subsection (1), and if there is doubt as to who the other Member is, the member of the Executive Council concerned shall be determined by the responsible Member. 5

Application of certain provisions concerning powers of responsible Member, and delegation of his powers

23. (1) Whenever a law requires a member of the Executive Council to do anything in or after consultation with or with the concurrence of the responsible Member, such requirement shall, unless one of the members concerned has otherwise directed, be deemed to have been complied with if consultation has taken place between the heads of the departments concerned or their representatives. 15

(2) Except in a case to which subsection (1) applies, the responsible Member may delegate to an officer in the department in which the provisions of this Act or any other law are administered by him, any power or function conferred on or assigned to him or her by this Act or such other law, in relation to the revenue, expenditure or property of the Province or a statutory body, with the exception of a power to make regulations and a power or function contemplated in sections 4(3), 7, 21(6), 24 and 25(3), but shall not thereby be divested of a power or function so delegated, and may amend or withdraw a decision of such an officer by virtue of any such delegation. 25

Endowments to the Province

24. If an endowment is made to the province, the responsible Member can, if it is not clear for what purpose the endowment should be utilized, determine how it is to be utilized, and if such endowment is in the way of cash, he or she can, notwithstanding the provisions of any law, direct that it should not be regarded as revenue for purposes of this Act. 30

Regulations

25. (1) The responsible Member may make regulations which are not contrary to the regulations made under a national exchequer act—

- (a) prescribing further duties and responsibilities of accounting officers; 35
- (b) providing for the designation of officers as principal receivers of revenue and prescribing their duties and responsibilities as such;
- (c) providing for the refund from current revenue of moneys collected in error; 40
- (d) providing for the designation of officers or other persons as financial managers and of officers as departmental accountants and prescribing their duties and responsibilities as such;

- (6) By die toepassing van hierdie artikel beteken "ander Lid" die lid van die Uitvoerende Raad wat 'n departement administreer wat direk of indirek betrokke is by die aangeleentheid onderliggend aan die aanwending van die opbrengs van die beoogde lening waarvoor 'n waarborg verlang word, en indien daar twyfel bestaan oor wie die ander Lid is, word die betrokke lid van die Uitvoerende Raad bepaal deur die verantwoordelike Lid.

Toepassing van sekere bepalings rakende bevoegdhede van die verantwoordelike Lid, en delegasie van bevoegdhede

- 10 **23.** (1) Wanneer 'n wet vereis dat 'n lid van die Uitvoerende Raad iets in of na oorleg met of met die instemming van die verantwoordelike Lid moet doen, tensy een van die betrokke lede anders gelas het, bedoelde vereiste geag nagekom te gewees het indien oorlegpleging tussen die betrokke departementshoofde of hul verteenwoordigers plaasgevind het.

- 15 (2) Die verantwoordelike Lid kan, behalwe in 'n geval waarop subartikel (1) betrekking het, 'n bevoegdheid of werksaamheid met betrekking tot die inkomste, uitgawes of goed van die Provinsie of 'n statutêre liggaam, wat by hierdie Wet of 'n ander wet aan hom of haar verleen of opgedra is, uitgesonderd 'n bevoegdheid om regulasies uit te vaardig en 'n bevoegdheid of werksaamheid bedoel in artikels 4(3), 7, 21(6), 24 en 25(3), aan 'n beambte in die departement waarin die bepalings van hierdie Wet of bedoelde ander wet deur hom of haar geadministreer word, delegeer, maar word nie daardeur van 'n aldus gedelegeerde bevoegdheid of werksaamheid ontdoen nie, en kan 'n besluit van so 'n beambte uit hoofde van so 'n delegasie wysig of intrek.

Skenkings aan die Provinsie

24. Wanneer 'n skenking aan die Provinsie gedoen word, kan die verantwoordelike Lid, as dit nie duidelik is vir watter doel die skenking aangewend moet word nie, beslis hoe dit aangewend moet word, en indien so 'n skenking in kontant is, kan hy of sy ondanks 'n andersluidende bepaling van die een of ander wet, gelas dat dit by die toepassing van hierdie Wet geag word nie Inkomste te wees nie.

Regulasies

- 35 **25.** (1) Die verantwoordelike Lid kan regulasies uitvaardig wat nie strydig is met regulasies uitgevaardig kragtens 'n nasionale skatkiswet wat—
- 40 (a) verdere pligte en verantwoordelikhede van rekenpligtige beamptes voorskryf;
- (b) voorsiening maak vir die aanwysing van beamptes as hoofontvangers van inkomste en hul pligte en verantwoordelikhede as sodanig voorskryf;
- (c) voorsiening maak vir die terugbetaling uit lopende inkomste van geld wat verkeerdelik ingevorder is;
- 45 (d) voorsiening maak vir die aanwysing van beamptes of ander persone as finansiële bestuurders en van beamptes as departementele rekenmeesters en hul pligte en verantwoordelikhede as sodanig voorskryf;

- (e) prescribing a system which shall be observed in regard to the collection, receipt, banking, custody, disbursement, control over and accounting for, and disposal of and supervision over State moneys and the accounts kept in connection therewith;
- (f) prescribing the conditions under which gifts to the Province may be accepted and utilized; 5
- (g) providing for the control over and stocktaking of securities, stamps and other State property;
- (h) providing for the manner in which and procedures according to which accounting officers and the Treasury shall exercise the powers and perform the duties assigned to them by this Act; 10
- (i) providing for the financial arrangements regarding a service rendered by one department to another;
- (j) providing in general for the administration of the provisions and the achievement of the objects of this Act. 15

(2) Different regulations may under subsection (1), be made in respect of different categories of State moneys or other State property, or different categories of persons entrusted with the collection, receipt, banking, custody, disbursement, disposal and control of, accounting for, and supervision over State moneys and other State property. 20

(3) The responsible Member may, if in his or her opinion circumstances warrant it, provide that a regulation made under subsection (1) need not be complied with or need not be complied with to the extent determined by him or her.

(4) The regulations issued in terms of a national exchequer act, shall in as far as it can be made in terms of this section, *mutatis mutandis* apply to the Province until replaced or amended by regulations issued by the responsible Member. 25

Instructions

26. (1) The Treasury may from time to time issue instructions and other directives, which shall not be inconsistent with the Regulations, in regard to— 30

- (a) any matter mentioned in section 18;
- (b) any matter mentioned in section 24;
- (c) the manner in which accounting officers shall make submissions to the Treasury and the persons by whom such submissions shall be signed; 35
- (d) the administration in general, of the provisions of this Act and the Regulations and the achievement of the objects thereof.

(2) The Treasury may, if in its opinion circumstances warrant it, approve a departure from an Instruction. 40

(3) Treasury Instructions issued in terms of a national exchequer act, shall as far as it can be made in terms of this section, *mutatis mutandis* apply to the Province, until replaced or amended by instructions issued by the Treasury. 45

- (e) 'n stelsel voorskryf wat gevolg moet word met betrekking tot die invordering, ontvangs, bank, bewaring, uitbetaling, beheer en verantwoording van en beskikking en toesig oor Staatsgeld en die rekenings wat in verband daarmee gehou word;
 - 5 (f) die voorwaardes voorgeskryf waarop skenkings aan die Provinsie ontvang en aangewend kan word;
 - (g) voorsiening maak vir die beheer oor en voorraadopname van sekuriteite, seëls en ander Staatsgoed;
 - 10 (h) voorsiening maak vir die wyse waarop en prosedures waarvolgens rekenpligtige beamptes en die Tesourie die bevoegdhede en pligte by hierdie Wet aan hulle opgedra, moet uitoefen en uitvoer;
 - (i) voorsiening maak vir die finansiële reëlins met betrekking tot 'n diens wat een departement aan 'n ander lewer;
 - 15 (j) in die algemeen vir die uitvoering van die bepalings van hierdie Wet en vir die bereiking van die oogmerke daarvan voorsiening maak.
- (2) Verskillende regulasies kan kragtens subartikel (1) uitgevaardig word ten opsigte van verskillende kategorieë Staatsgeld of ander Staatsgoed, of verskillende kategorieë persone aan wie die invordering, ontvangs, bank, bewaring, uitbetaling, beheer en verantwoording van, en beskikking toesig oor, Staatsgeld en ander Staatsgoed toevertrou is.
- (3) Die verantwoordelike Lid kan, indien omstandighede na sy of haar oordeel dit regverdig, bepaal dat 'n regulasie wat kragtens subartikel 25 (1) uitgevaardig is, nie nagekom hoef te word nie in die mate wat hy of sy bepaal.
- (4) Die regulasies uitgevaardig kragtens 'n nasionale skatkiswet is, vir sover dit kragtens hierdie artikel uitgevaardig kan word, *mutatis mutandis* van toepassing op die Provinsie totdat dit vervang of gewysig word deur 30 regulasies uitgevaardig kragtens subartikel (1) deur die verantwoordelike Lid.

Instruksies

26. (1) Die Tesourie kan van tyd tot tyd instruksies uitreik wat nie met die Regulasies strydig is nie, met betrekking tot—
- 35 (a) 'n aangeleentheid vermeld in artikel 18;
 - (b) 'n aangeleentheid vermeld in artikel 5;
 - (c) die wyse waarop voorleggings aan die Tesourie deur rekenpligtige beamptes gedoen moet word en die persone deur wie sodanige voorleggings geteken moet word;
 - 40 (d) die uitvoering, in die algemeen, van die bepalings van hierdie Wet en die Regulasies en die bereiking van die oogmerke daarvan.
- (2) Indien, na die oordeel van die Tesourie, omstandighede dit regverdig, kan hy of sy 'n afwyking van 'n Instruksie goedkeur.
- 45 (3) Tesourie-instruksies uitgereik kragtens 'n nasionale skatkiswet is, vir sover dit kragtens hierdie artikel uitgereik kan word, *mutatis mutandis* van toepassing op die Provinsie totdat dit gewysig of vervang word deur instruksies uitgereik kragtens subartikel (1) deur die Tesourie.

Revenue Instructions

27. (1) An officer designated as principal receiver of revenue may, from time to time, and shall whenever required by the Treasury to do so, issue to all persons who are responsible for the collection, control and disposal of any revenue in respect of which he or she is the principal receiver, or of such other revenues as the Treasury may determine, such instructions (entitled Revenue Instructions) as the Treasury may approve, or require him or her to issue in regard to such collection, control and disposal. 5

(2) Until a principal receiver of revenue has issued instructions under this section, the Revenue Instructions issued by the Receiver of Revenue in terms of a national exchequer act, shall, in as far as it can be issued in terms of this section, *mutatis mutandis* apply with regard to revenue for which such a principal receiver is responsible. 10

CHAPTER III

15

SHORT TITLE**Short title**

28. This Act shall be called the Northern Cape Exchequer Act, 1994, and shall come into operation on a date to be determined by the Premier by notice in the *Provincial Gazette*. 20

SCHEDULE**DEPARTMENTS**

Department of Budgetary and Auxiliary Services	
Department of Housing and Local Government	
Department of Economic Affairs, Trade and Industry	25
Department of Health and Welfare	
Department of Agriculture and Nature Conservation	
Department of Education and Culture	
Department of Safety and Security	
Department of Transport, Roads and Traffic Control	30
Office of the Premier and Provincial Service Commission	

Inkomstevoorskrifte

27. (1) 'n Hoofontvanger van inkomste aangewys ingevolge artikel 3(2)(a) kan, van tyd tot tyd, en moet wanneer die Tesourie hom of haar aansê om dit te doen, aan alle persone wat verantwoordelik is vir die invordering, beheer en beskikking van of oor Inkomste wat die Tesourie aanwys, die voorskrifte (wat Inkomstevormskrifte heet) met betrekking tot sodanige invordering, beheer, en beskikking uitreik wat die Tesourie goedkeur of wat hy of sy volgens bedoelde aansegging moet uitreik.

(2) Tot tyd en wyl 'n hoofontvanger van inkomste voorskrifte kragtens hierdie artikel uitgereik het, is die Inkomstevoorskrifte uitgereik deur die Ontvanger van Inkomste kragtens 'n nasionale skatkiswet, vir sover dit kragtens hierdie artikel uitgereik kan word, *mutatis mutandis* van toepassing ten opsigte van inkomste waarvoor sodanige hoofontvanger verantwoordelik is.

HOOFSTUK III**KORT TITEL****Kort titel en inwerkingtreding**

28. Hierdie Wet heet die Noord-Kaapse Skatkiswet, 1994, en tree in werking op 'n datum wat die Premier by kennisgewing in die *Provinsiale Koerant* bepaal.

BYLAE**DEPARTEMENTE**

Departement van Begrotings- en Hulpdienste
Departement van Behuising en Plaaslike Regering
25 Departement van Ekonomiese Sake, Handel en Nywerheid
Departement van Gesondheid en Welsyn
Departement van Landbou en Natuurbewaring
Departement van Opvoeding en Kultuur
Departement van Veiligheid en Sekuriteit
30 Departement van Vervoer, Paaie en Verkeerbeheer
Kantoor van die Premier en Provinsiale Dienskommissie

ACT

To provide for the procurement of supplies and services for, the disposal of moveable property of, and the hiring or letting of anything or the acquisition or granting of any right for or on behalf of, the Province, and to that end to establish a Provincial Tender Board and to define its functions, and to provide for incidental matters.

(English text signed by the Premier)
(Assented to 2 September 1994)

BE IT ENACTED by the Provincial legislature of the Northern Cape Province, as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—

"best interests", means that the interests of the State were better served by taking a particular action that if the action had not been taken; 5

"Board" means the Northern Cape Provincial Tender Board established under section 2;

"damage", means any financial loss, loss of prestige or any other unfavourable result of a particular action; 10

"emergency", means any situation of immediate danger to life or damage to the State arising from *force majeure*;

"employee" means an employee as defined in section 1 of the Public Service Act, 1994; 15

"Executive Council" means the Executive Council of the Northern Cape Province as referred to in section 149 of the Constitution of South Africa, 1993 (Act No. 200 of 1993);

WET

Om voorsiening te maak vir die reëling van die verkryging van lewens-
ransies en dienste vir, die vervreemding van roerende goed van,
en die huur of verhuur van enigiets of die verkryging of verlening
van enige reg vir of namens, die Provinsie, en om te dien einde 'n
Tenderraad in te stel en sy werksaamhede te bepaal; en om vir
bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur Premier geteken)
(Goedgekeur op 2 September 1994)

DAAR WORD BEPAAL deur die Provinsiale wetgewer van die Noord-
Kaap, soos volg:—

Woordomsrywings

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- 5 “aanbod” enige aanbod, insluitende 'n tender of kwotasie, gemaak
deur 'n persoon binne of buite die Republiek, met die oog op die
aangaan van 'n ooreenkoms in artikel 4(1)(a) bedoel;
- “beampte” 'n beampte soos omskryf in artikel 1 van die
Staatsdienswet, 1994;
- 10 “beste belang” wanneer, indien 'n bepaalde optrede geneem is, die
belange van die Staat beter gedien was as sou sodanige optrede nie
geneem gewees het nie;
- “beperking” 'n beperking opgelê ten opsigte van enige persoon en
wat voortspruit uit 'n beslissing van die Raad soos in artikel 4(3)
15 voorsien;
- “die verantwoordelike Lid” die lid van die Uitvoerende Raad van die
Provinsie belas met finansiële aangeleenthede;
- “hierdie Wet” ook enige regulasie uitgevaardig daarkragtens;

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Also available at the **Provincial Administration: Northern Cape**, Private Bag X5016, Room 332, Provincial Building, Chapel Street, Kimberley, 8300. Tel. (0531) 81-4760 x 2239
Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaat Sak X85, Pretoria, 0001. Tel. (012) 323-9731 x 260
Ook verkrygbaar by die **Provinsiale Administrasie: Noord-Kaap**, Privaat Sak X5016, Kamer 332, Provinsiale Gebou, Chapelstraat, Kimberley, 8300. Tel. (0531) 81-4760 x 2239