



KWAZULU-NATAL PROVINCIAL TREASURY

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Our reference: Circulars to Municipalities
Inkomba yethu :
Ons verwysing:

Date: 10 August 2011
Usuku:
Datum :

Please quote our reference on all correspondence

**To: MAYOR
MUNICIPAL MANAGERS
CHIEF FINANCIAL OFFICERS
KWAZULU NATAL MUNICIPALITIES**

PROVINCIAL TREASURY CIRCULAR TC/RM 9 OF 2010/11

NON-COMPLIANCE WITH THE MFMA REPORTING REQUIREMENTS

Reference is made to my previous Circular TC/RM 5 of 2010/11 regarding the abovementioned matter. I have noted significant improvement in the number of municipalities complying with the reporting requirements as set out in the different sections of the Municipal Finance Management Act (MFMA) (Act No. 56 of 2003) and the 2010 Division of Revenue Act (DoRA). As you are aware I have notified the Auditor General in previous instances of non compliance by municipalities of reporting requirements.

Following the fourth quarter of the 2010/11 financial year, it has emerged that there are signs of improvements; however, there are still municipalities that are persistently not complying with MFMA and DoRA reporting requirements. A list of those municipalities which have not been fully complying with those reporting requirements are discussed and attached as the following annexures:

- Annexure A: 2010/11 MFMA Implementation Plan
- Annexure B: 2010/11 Appendix B Budget Returns and Annual Returns
- Annexure C: 2010/11 Section 71 Monthly Returns
- Annexure D: 2010/11 Quarterly Returns
- Annexure E: 2010/11 Verification of Figures for Quarter 3 of 2010/11
- Annexure F: Publication of Section 75 Information on Municipal Websites
- Annexure G: Finance Management Grant (FMG) Conditions/Appointment of Municipal Interns

Both National Treasury and Provincial Treasury have provided support and training to assist municipalities in meeting their reporting requirements and can no longer overlook any deliberate or inadvertent non-compliance with the law. Should the non-compliance by municipalities persist, the following steps to enforce compliance will be considered:

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1. Notify the Auditor-General of the municipality's failure to comply with relevant MFMA reporting requirements;
2. Recommend to the concerned municipality's council that it considers investigating the Accounting Officer in terms of Section 171(4) of the MFMA, with a view to taking disciplinary action against the Accounting Officer in the light of his or her failure to comply with relevant MFMA reporting requirements;
3. Launch an investigation with a view to laying charges against the Accounting Officer for financial misconduct in terms of Section 171 of the MFMA; and
4. Explore options to stop all transfer to the municipality concerned for breach of their reporting obligations.

During the 2010/11 financial year, Provincial Treasury reported non-compliance with the MFMA Reporting Requirements to Legislature on a quarterly basis through the Section 71(7) Report, where the MEC for Finance is required to submit a consolidated statement on the state of municipalities' budgets *to the provincial legislature no later than 45 days after the end of each quarter*. It is therefore the intention of Provincial Treasury to submit a list of those municipalities that are persistently not complying with the MFMA and DoRA reporting requirements to the legislature for their consideration.

The KwaZulu-Natal Provincial Treasury once again through this circular urges all affected municipalities to address their failure to fully comply with all the reporting requirements in terms of the MFMA and DoRA pertaining to the 2010/11 financial year. Provincial Treasury has communicated extensively with municipalities on this topic. You will undoubtedly agree that Provincial Treasury has been extremely patient and has relentlessly accommodated municipalities. The officials from Provincial Treasury will continue to assist and support their designated municipalities. They will also be following up with each of the municipalities on all non-compliance issues; however, the onus rests with Accounting Officer to ensure that their municipality fully complies with all outstanding reporting requirements **as a matter of urgency but no later than 11 August 2011**.

It should also be noted that our source of information is the National Treasury Local Government Database (lgdatabase). Should your municipality dispute any of the information reflected in the annexures, please provide both Provincial Treasury and National Treasury with the evidence to confirm any discrepancy.

Yours sincerely



**MS INA CRONJÉ, MPP
MEC FOR FINANCE - KZN**

c.c. Jan Hattingh, National Treasury
TV Pillay, National Treasury
Herman van Zyl, Auditor General

Annexure A: 2010/11 MFMA Implementation Plan

The National Treasury issued MFMA Circular 7 in 2004 together with a “MFMA Implementation Plan template”. All municipalities were required to prepare and submit the MFMA implementation plan indicating how they would implement the MFMA reforms. The MFMA implementation plan provides municipalities with a starting point to develop and manage the reforms. Furthermore, municipalities were required to establish a steering committee to manage and oversee the MFMA implementation plan. The MFMA implementation plan for 2010/11 was due on 31 October 2010; 2 municipalities have not submitted their implementation plans for the 2010/11 financial year. Those municipalities that did not submit their implementation plans for 2010/11 are listed in Table 1.

Table 1: List of municipalities that did not submit their MFMA implementation plan for the 2010/11 financial year

| Non-Compliant Municipalities |
|-------------------------------------|
| eDumbe and Indaka |

Source: Local Government Database

The non-complying municipalities are urged to upload their 2010/11 MFMA Implementation Plans on mfma@treasury.gov.za as a matter of urgency and send a copy to the Provincial Treasury.

Annexure B: 2010/11 Appendix B Budget Returns and Annual Returns

In terms of Section 22(b) of the MFMA, *the accounting officer of the municipality must submit the annual budget -*

- (a) in both printed and electronic formats to the National Treasury and the relevant Provincial Treasury; and*
- (b) in either format to any prescribed national or provincial organs of the state and to other municipalities affected by the budget.*

National Treasury uses the budget figures from Appendix B: Budget Returns Forms for their quarterly publication of municipal financial performance. Furthermore, in order for National Treasury to build and maintain data on local government, all municipalities are required to upload a number of annual returns and other important documents. The purpose of collecting data into one database, amongst other things is to assist with effective planning and decision making. In this regard, a number of municipalities have not uploaded their Appendix B Budget Returns Forms and a number of annual returns. Table 2 shows the municipalities that have not uploaded/submitted the relevant return forms. The non-complying municipalities have been identified from the National Treasury database report dated 3 August 2011.

Table 2: List of municipalities that have not submitted the Appendix B Budget Returns Forms, and Annual Returns

| Name of Return | Period | Non-Compliant Municipalities |
|---|---------------|--|
| Asset Management Return | 2010/11 | Ugu, Impendle, Umvoti, Newcastle, and Sisonke |
| IDP to Budget Return | 2010/11 | Ezinqoleni |
| Financial Position Revised Return (BSR) | 2010/11 | Hibiscus Coast, uMshwathi, Mpofana, Okhahlamba |
| Capital Acquisition Revised Return (CAR) | 2010/11 | Hibiscus Coast, Newcastle |
| Financial Performance Revised (OSR) | 2010/11 | Hibiscus Coast, Impendle |

Source: Local Government Database

Annexure C: Section 71 Monthly Returns

In terms of Section 71 (1) of the MFMA, *the accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to the end of that month:*

- (a) *Actual Revenue, per revenue source;*
- (b) *actual borrowings;*
- (c) *actual expenditure, per vote;*
- (d) *actual capital expenditure, per vote;*
- (e) *the amount of any allocations received;*
- (f) *actual expenditure of those allocations”.....*

The Section 71 Monthly Returns are divided into two categories, namely, the monthly *Budget Reform Return Forms* and the *Conditional Grants Return Forms*.

As at 3 August 2011, the monthly returns listed in Table 3 has not been submitted to the local government database.

Table 3: List of municipalities that did not submit the monthly returns

| Name of Return | Period | Non-Compliant Municipalities |
|--------------------------------------|---------------|---|
| Age Creditors | December 2010 | Ezinqoleni |
| | January 2011 | Ezinqoleni |
| | February 2011 | Ezinqoleni |
| | March 2011 | Ezinqoleni |
| | April 2011 | Ezinqoleni |
| | May 2011 | Ezinqoleni |
| | June 2011 | Greater Kokstad, Ezinqoleni, uMuziwabantu and Maphumulo |
| Age Debtors | June 2011 | eMadlangeni, Ezinqoleni, uMuziwabantu and Mandeni |
| Capital Acquisitions Actuals | June 2011 | Ubuhlebezwe and uMuziwabantu |
| Cash Flow Actuals | June 2011 | Umdoni, uMuziwabantu and Impendle |
| Financial Performance Actuals | May 2011 | Nquthu |
| | June 2011 | eMadlangeni and uMuziwabantu, |

Source: Local Government Database

Conditional Grants Return Forms

In terms of Section 12(2)(b) of the 2010 DoRA, a municipality must , as part of the report required in terms of Section 71 of the Municipal Finance Management Act, report on their grant expenditure *to the relevant provincial treasury, the National Treasury and the relevant transferring national officer.*

Section 12(4) of 2010 DoRA further specifies that the report by a municipality in terms of Section (2)(b) *must set out for that month and for the financial year up to the end of that month:*

- (a) *the amount received by the municipality;*
- (b) *the amount of funds stopped or withheld from the municipality;*

- (c) the extent of compliance with this Act and with the conditions of an allocation or part of an allocation provided for in a framework;
- (d) an explanation of any material problems experienced by the municipality;
- (e) regarding an allocation which has been received and a summary of the steps taken to deal with such problems;
- (f) any matter or information that may be prescribed in the relevant framework for the particular allocation; and
- (g) such other issues and information as the National Treasury may determine.

As at 3 August 2011, the conditional grant returns listed in Table 4 have not been submitted to the local government database.

Table 4: List of municipalities that did not submit the monthly conditional grants returns for the 2010/11 financial year

| Name of Return | Period | Non-Compliant Municipalities |
|--|------------|--|
| Finance Management Grant | June 2011 | Newcastle, uMuziwabantu and Maphumulo |
| Integrated Electrification Programme Grant | June 2011 | Newcastle and uMuziwabantu |
| Municipal Infrastructure Grant | June 2011 | Newcastle, uMuziwabantu, Maphumulo and Mfolozi |
| Municipal Systems Improvement Programme Grant | April 2011 | Nquthu |
| | May 2011 | Nquthu and Ntambanana |
| | June 2011 | uMuziwabantu and Maphumulo |
| Neighbourhood Development Partnership Grant | June 2011 | Newcastle |

Source: Local Government Database

The non-complying municipalities are urged to upload all the outstanding monthly returns as well as the conditional grants returns on the lgdatabase@treasury.gov.za by **11 August 2011** and send a copy to Provincial Treasury.

Annexure D: 2010/11 Quarterly Returns

Section 74(1) of the MFMA states that *the accounting officer of a municipality must submit to the National Treasury, provincial treasury, the department for local government in the province or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as may be required*. Section 104(1)(b) requires the same from the accounting officer of a municipal entity.

Towards this end, National Treasury has prescribed that the quarterly returns must be submitted on borrowing, long term contracts, municipal entities and the implementation of the MFMA priorities (as specified in MFMA Circular No. 38). Table 5 provides the list of municipalities that did not submit the required quarterly returns as at 3 August 2011.

Table 5: List of municipalities that did not submit the different quarterly returns pertaining to 2010/11 financial year

| Name of Return | Period | Non-Compliant Municipalities |
|--|-----------|------------------------------|
| Borrowing Monitoring (New Form) | Quarter 3 | Sisonke and Zululand |

Source: Local Government Database

Municipalities are urgently required to submit all outstanding quarterly returns for 2010/11 to the lgdatabase@treasury.gov.za by **11 August 2011** and send a copy to Provincial Treasury.

Municipalities are also reminded that the quarterly returns pertaining to quarter four were due at the end of July 2011 and should be uploaded to the lgdatabase@treasury.gov.za and a copy must be sent to the Provincial Treasury.

Annexure E: Verification of Figures for Quarter 3 of 2010/11

Provincial Treasury is concerned about the reliability of budget and expenditure figures published by National Treasury. It was noted in the past that there has been discrepancies in the data submitted to the Local Government Database by municipalities. To ensure that the figures published by National Treasury are reliable, it is imperative that municipalities scrutinise, verify and sign-off the verifications schedules sent to them by National Treasury on a quarterly basis. There are two quarterly verification schedules, namely the:

- (a) Statement of Operating and Capital Expenditure (Section 71 Verification); and
- (b) Conditional Grants Actual Transfers and Expenditure Schedule (Grant Verification).

Table 6 provides the list of municipalities that did not submit signed copies of the required quarterly verifications to National and Provincial Treasury at the end of the third quarter of 2010/11.

Table 6: List of municipalities that did not submit signed copies of the required quarterly verifications of quarter three of the 2010/11 financial year

| Verifications Not Submitted to National / Provincial Treasury | |
|--|---------------------------|
| Section 71 Verification | Grant Verification |
| Umuziwabantu | Umuziwabantu |
| uMngeni | Mpofana |
| Mkhambathini | Umvoti |
| Richmond | Umzinyathi |
| Emnambithi/Ladysmith | eDumbe |
| Imbabazane | uPhongolo |
| Nquthu | Ulundi |
| Newcastle | Mtubatuba |
| Dannhauser | Ntambanana |
| eDumbe | KwaDukuza |
| Ulundi | iLembe |
| Zululand | Ingwe |
| Jozini | Greater Kokstad |
| Hlabisa | Ubuhlebezwe |

| Verifications Not Submitted to National / Provincial Treasury | |
|---|--------------------|
| Section 71 Verification | Grant Verification |
| Mtubatuba | Umuziwabantu |
| Ntambanana | |
| Ndwedwe | |
| Ubuhlebezwe | |
| Umuziwabantu | |

Source: National and Provincial Treasury

National Treasury has distributed the fourth quarter verification schedules to municipalities on 25 July 2011. Please ensure that the schedules are scrutinised for accuracy and if the numbers are correct that the schedules are signed by both the Municipal Manager and the Chief Financial Officer and faxed or scanned and e-mailed to both National and Provincial Treasury **by 10h00 on 11 August 2011**.

Accepted numbers with regard to the *Statement of Operating and Capital Expenditure* must be signed by both the Municipal Manager and the Chief Financial Officer and faxed to (012) 395-6553 for attention Ms Elsabe Rossouw or scanned and mailed to lgdocuments@treasury.gov.za and Provincial Treasury at mfma@kzntreasury.gov.za.

Similarly, for the *Conditional Grants Actual Transfers and Expenditure Schedule*, the accepted numbers should also be signed by both the Municipal Manager and the Chief Financial Officer and faxed to (012) 395-6732 and (012) 315-5045 for attention Mr Sello Mashaba or scanned and mailed to lgdocuments@treasury.gov.za and Provincial Treasury at mfma@kzntreasury.gov.za.

To ensure that the verification schedules submitted are legible, the scanning and e-mailing of the schedules are preferred.

Annexure F: Publication of Section 75 Information on Municipal Websites

In terms of Section 75(1) of the MFMA, municipalities are required to place the following documents on their municipal websites:

- a) *The annual and adjustments budgets and all budget-related documents;*
- b) *All budget-related policies;*
- c) *Annual Report;*
- d) *All performance agreements required in terms of section 57(1)(b) of the Municipal Systems Act;*
- e) *All service delivery agreements;*
- f) *All long-term borrowing contracts;*
- g) *All supply chain management contracts above a prescribed value;*
- h) *An information statement containing a list of assets over a prescribed value that have been disposed of in terms of section 14(2) or (4) during the previous quarter;*
- i) *Contracts to which subsection (1) of section 33 apply, subject to subsection (3) of that section;*
- j) *Public-private partnership agreements referred to in section 120;*
- k) *All quarterly reports tabled in the council in terms of section 52(d); and*
- l) *Any other documents that must be placed on the website in terms of this Act or any other applicable legislation, or as may be prescribed.*

Section 75(2) of the Act further requires that documents *must be placed on the website not later than five working days after its tabling in council, or on the date on which it must be made public, whichever occurs first.*

As at 3 August 2011, the municipalities listed in Table 7 have not established and/or placed updated copies of the required documents on their websites:

Table 7: List of municipalities that have not established and/or placed updated copies of the required documents on their websites

| Non-Compliant Municipalities | Non-Compliant Municipalities | Non-Compliant Municipalities |
|------------------------------|------------------------------|------------------------------|
| Vulamehlo | uMgungundlovu | Msinga |
| Umdoni | Amajuba | Umvoti |
| Umzumbe | Okhahlamba | Umzinyathi |
| uMuziwabantu | Imbabazane | Newcastle |
| Ezinqoleni | Umkhanyakude | eMadlangeni |
| Amajuba | Ntambanana | Dannhauser |
| eDumbe | Nkandla | iLembe |
| Nongoma | KwaDukuza | Ingwe |
| Ulundi | Ndwedwe | Indaka |
| Umhlabuyalingana | Maphumulo | Ubuhlebezwe |
| Jozini | The Big Five False Bay | Umzimkhulu |
| Mtubatuba | Sisonke | |

Source: Municipal Websites

The non-complying municipalities are urged to established and/or place updated copies of the required Section 75 documents on their websites **immediately**. Should you experience any challenges with regard to establishing and/or placing updated copies of the required Section 75 documents on your website or require any further clarity pertaining to this matter, kindly inform Provincial Treasury.

Annexure G: Finance Management Grant (FMG) Conditions/Appointment of Municipal Interns

In terms of the Financial Management Grant (FMG) conditions published in the 2010 DoRA, the grant may be utilised for amongst other things *the establishment of a Budget and Treasury Office with positions filled by appropriately qualified personnel and appointment of a minimum of five interns over a multi year period.*

As at 3 August 2011, the municipalities listed in Table 8 have not appointed five interns.

Table 8: List of municipalities who have not appointed five interns

| Non-Compliant Municipalities | Non-Compliant Municipalities | Non-Compliant Municipalities |
|------------------------------|------------------------------|------------------------------|
| Umdoni | Emnambithi/Ladysmith | Kwa Sani |
| Hibiscus Coast | Indaka | Zululand |
| Umuziwabantu | Imbabazane | Amajuba |
| uMshwathi | Mtubatuba | |
| Mpofana | Maphumulo | |

Source: KZN Provincial Treasury

Please advise Provincial Treasury by no later than **11 August 2011** whether your municipality has appointed five interns or the date by which your municipality anticipates having five interns employed as per DoRA.