



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

Date: 29 July 2015
Usuku:
Datum:

Please quote our reference on all correspondence

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

PROVINCIAL TREASURY CIRCULAR TC/RM 1 OF 2015/16

NON-COMPLIANCE WITH THE MFMA REPORTING REQUIREMENTS

My office issues circulars to Mayors regarding non-compliance with the Municipal Finance Management Act (MFMA) (Act No. 56 of 2003) and Division of Revenue Act (DoRA) (Act No. 2 of 2013) reporting requirements. Despite the issue of previous non-compliance circulars, it is of serious concern that a number of municipalities in KwaZulu-Natal are still not fully complying with all the requirements of the MFMA and DoRA.

Following reports submitted for the fourth quarter of the 2014/15 financial year, it emerged that a number of municipalities in the province are either failing to comply with **ALL** the reporting requirements as set out in the different sections of the MFMA and DoRA; or are submitting reports for compliance purposes only without ensuring the accuracy of the information submitted.

During the high level assessment of the 2015/16 Approved Budgets of the 58 KZN delegated municipalities, where budgets were found to be unfunded, municipalities were afforded an opportunity to rectify such through an adjustments budget, failing which I as the MEC for Finance in the Province will report the errant municipalities to National Treasury to consider the stopping of their Equitable Share transfers of Section 38 of the MFMA.

The following annexures list out some of the most important MFMA and DoRA reporting requirements that have not been complied with by municipalities, together with a list of municipalities who did not fully comply with those reporting requirements:

- Annexure A: 2014/15 MFMA Implementation Plan
- Annexure B: 2014/15 Service Delivery and Budget Implementation Plan (SDBIP)
- Annexure C: 2014/15 Budget Returns (Appendix B) and Annual Returns
- Annexure D: 2014/15 Section 71 Monthly Returns
- Annexure E: 2014/15 Quarterly Returns
- Annexure F: 2014/15 Conditional Grants Return Forms
- Annexure G: 2014/15 Verification of Figures for Quarter 4
- Annexure H: 2014/15 Mid Year Budget and Performance Assessment
- Annexure I: Publication of Section 75 Information on Municipal Websites
- Annexure J: Financial Management Grant (FMG) Conditions/Appointment of Municipal Interns
- Annexure K: 2014/15 MFMA Competency Level Return (S1 and S2)

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Both the National and Provincial Treasuries provided support and training to assist municipalities in meeting their reporting requirements and can no longer allow any deliberate or inadvertent non-compliance with the law. Provincial Treasury will consider the following steps, should the non-compliance by municipalities persist:

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 of laying charges against the Accounting Officer for financial misconduct in terms of Section 171 of the MFMA and Regulation 19 of Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (*issued in 30 May 2014*); and
4. Explore options to stop all transfers to the municipality for breach of their reporting obligations.

During the 2014/15 financial year, Provincial Treasury reported non-compliance with both the MFMA and DoRA reporting requirements to the KwaZulu-Natal Provincial 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 continue 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 urges all the municipalities to ensure full compliance with all the reporting requirements in terms of the MFMA and DoRA in the 2014/15 financial year. The officials from Provincial Treasury will continue to assist and support their designated municipalities to enforce full compliance by all municipalities.

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

Please direct any enquiries to the General Manager: Municipal Finance, Mr. Farhad Cassimjee on telephone 033 897 4541.

Yours sincerely



MS B F SCOTT
MEC FOR FINANCE - KZN

CC Jan Hattingh, National Treasury
TV Pillay, National Treasury
V Maharaj, Business Executive (Auditor General)

Annexure A: 2014/15 MFMA Implementation Plan

The National Treasury issued MFMA Circular No.7 “MFMA Implementation Plan Template” on 23 September 2004. All municipalities were required to prepare and submit the MFMA Implementation Plan indicating how they would implement the MFMA reforms. The MFMA Implementation Plan should be used by municipalities to enable them to achieve compliance with relevant legislation. Municipalities are required to establish a steering committee to manage and oversee, inter alia the MFMA implementation plan. The MFMA implementation plan for 2014/15 was due on 31 October 2014. As at 20 July 2015, the municipalities in Table 1 below have still not submitted their 2014/15 MFMA Implementation Plans.

Table 1: List of the municipalities that did not submit their MFMA implementation plan for the 2014/15 financial year.

Non Compliant Municipalities	Non Compliant Municipalities
Amajuba	Umzinyathi
eMadlangeni	Nongoma
Ntambanana	Ulundi
Umzimkhulu	Ndwedwe
Ezinqoleni	Mpofana
Hibiscus Coast	Vulamehlo
Msinga	Nquthu
Umvoti	

Source: Local Government Database

Annexure B: 2014/15 Service Delivery and Budget Implementation Plan (SDBIP)

Section 53(1)(c)(ii) of the MFMA indicates that *the mayor of a municipality must take all reasonable steps to ensure that the municipality's service delivery and budget implementation plan is approved by the mayor within 28 days after the approval of the budget.*

Section 20(2)(b) of the Municipal Budget and Reporting Regulations (MBRR) further states that the Municipal Manager must submit to the National Treasury and the relevant Provincial Treasury, in both printed and electronic format, the approved Service Delivery and Budget Implementation Plan within ten working days after the mayor has approved the plan.

As at 20 July 2015, the municipality listed in Table 2 below had outstanding SDBIP for 2014/15. Furthermore, if the SDBIP for this particular municipality was not approved by the Mayor, this could effectively mean that Section 53(1)(c)(ii) of the MFMA has been breached.

The municipalities are reminded to submit to the National Treasury and the relevant Provincial Treasury, in both printed and electronic format, the approved 2014/15 SDBIP within ten working days after the Mayor has approved the plan.

Table 2: List of the municipalities that did not submit their final SDBIP for the 2014/15 financial year

Non Compliant Municipalities	Non Compliant Municipalities
Nongoma	Impendle
Ulundi	Ntambanana
Mpofana	

Source: Local Government Database

Annexure C: 2014/15 Budget Returns (Appendix B) and Annual Returns

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

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

The budget figures from Appendix B: Budget Returns Forms is utilised by National Treasury for their quarterly publications on municipal financial performance. National Treasury further hosts the LG Database to which the municipalities submit various other monthly, quarterly and annual reports, as the department endeavours to maintain accurate and complete financial information on all municipalities for planning, reporting and decision making purposes. Table 3 shows the municipalities that have not uploaded/ submitted their relevant return forms. The non-complying municipalities have been identified from the National Treasury database report dated 20 July 2015.

Table 3: List of municipalities that have not submitted the Appendix B Budget Returns Forms and Annual Returns as at 20 July 2015

Name of Return	Period	Non Compliant Municipalities
Age Creditors Audited	2013/14	Ulundi
Age Debtors Audited	2013/14	Ulundi
Capital Acquisition Audited	2013/14	Amajuba District, eDumbe, Hibiscus Coast, Nongoma and
Cash Flow Audited	2013/14	Hibiscus Coast
Financial Perform Audited	2013/14	Hibiscus Coast
IDP to Budget	2014/15	eDumbe, eMadlangeni, Ezingoleni, Umvoti, Hibiscus Coast and Msinga

Source: Local Government Database

Annexure D: 2014/15 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 20 July 2015, the monthly 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 returns

Name of Return	Period	Non Compliant Municipalities
Cash Flow Actuals	April 2015	Vulamehlo
	May 2015	Nongoma and Vulamehlo
	June 2015	Amajuba DM, eMadlangeni and Nquthu, Ezingoleni, Hibiscus, uPhongolo, Uthukela DM and Vulamehlo.

Name of Return	Period	Non Compliant Municipalities
Age Creditors	April 2015	Mpofana
	May 2015	Vulamehlo
	June 2015	Amajuba DM, eMadlangeni, uMngeni, uPhongolo, Uthukela DM and Vulamehlo
Age Debtors	March 2015	Ubuhlebezwe
	April 2015	Nkandla, and Ubuhlebezwe
	May 2015	Vulamehlo and Ubuhlebezwe
	June 2015	Amajuba DM, eMadlangeni, Ezingoleni, Uthukela DM, uThungulu DM, Vulamehlo and Ubuhlebezwe
Financial Position Actuals	April 2015	Nongoma
	May 2015	Nongoma and Vulamehlo
	June 2015	Amajuba DM, Dannhauser, eMadlangeni, Emnambithi/Ladysmith, Ezingoleni, Nongoma, Uthukela DM and Vulamehlo
Capital Acquisitions Actuals	June 2015	Amajuba DM, eMadlangeni, Emnambithi/Ladysmith, Ingwe, Nkandla, Nongoma, uPhongolo, Uthukela DM and Vulamehlo
Financial Perform Actuals	April 2015	Mpofana
	May 2015	Nkandla, Umvoti and Vulamehlo
	June 2015	Amajuba DM, eMadlangeni, Ezingoleni, Harry Gwala DM, Hibiscus Coast, Nkandla, Ugu DM, Uthukela DM and Vulamehlo
Repairs and Maintenance	May 2015	Nkandla and Vulamehlo
	June 2015	Amajuba, eMadlangeni, Hibiscus Coast, Ingwe, Uthukela and Vulamehlo

Source: Local Government Database

Annexure E: 2014/15 Quarterly Returns

Section 74(1) of the MFMA states that *the accounting officer of a municipality must submit to the National Treasury, the 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.*

National Treasury has prescribed that the quarterly returns must be submitted on borrowings, investments, long term contracts, municipal entities, the implementation of the MFMA priorities (as specified in MFMA Circular No. 38) and public-private partnerships. Table 5 shows the list of municipalities that did not submit the required quarter returns for 2014/15 as at 20 July 2015.

It should be noted that Table 5 also include municipalities that do not have a municipal entity, however were still required to submit a MFMA Municipal Entity return with nil information.

Table 5: List of the municipalities that did not submit the different quarterly returns for the 2014/15 financial year

Quarter	Borrowings Monitoring	MFMA Long Term Contracts	MFMA Municipal Entity
Quarter 2		Nongoma	Nongoma
		uMuziwabantu	
		Uthukela DM	

Quarter	Borrowings Monitoring	MFMA Long Term Contracts	MFMA Municipal Entity
Quarter 3	Ulundi	Abaqulusi	Nongoma
	Vulamehlo	Nongoma	Ulundi
		Ulundi	Uthukela DM
		Uthukela DM	

Source: Local Government Database

The municipalities are also reminded to submit the quarterly returns for the fourth quarter as and when they fall due.

Annexure F: 2014/15 Conditional Grants Return Forms

In terms of Section 12(2) (b) of the 2014 DoRA, a municipality must, as part of the report required in terms of Section 71 of the MFMA, report on their grant expenditure *to the relevant Provincial Treasury, the National Treasury and the relevant transferring national officer.*

Section 12(4) of 2014 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 20 July 2015, the conditional grant returns listed in Table 6 have not been submitted to the Local Government Database.

Table 6: List of the municipalities that did not submit the monthly conditional grants returns for the 2014/14 financial year

Name of Return	Period	Non Compliant Municipalities
Finance Management Grant	June 2015	Amajuba DM, eMadlangeni, Uthukela DM and Vulamehlo
Municipal Infrastructure Grant	April 2015	Nkandla
	June 2015	Amajuba DM, eMadlangeni, Emnambithi/Ladysmith, Uthukela DM and Vulamehlo
Integrated National Electrification Programme Grant	June 2015	eMadlangeni, Nkandla, and Vulamehlo
Municipal Water Infrastructure Grant	June 2015	Amajuba DM
Rural Households Infrastructure Grant	June 2015	Uthukela DM
Name of Return	Period	Non Compliant Municipalities
Expanded Public Works Programme Grant	June 2015	Amajuba DM, eDumbe, eMadlangeni, Ezingoleni, Ingwe, Nkandla, Uthukela DM and Vulamehlo

Municipal Systems Improvement Prog Grant	April 2015	Vulamehlo
	May 2015	Vulamehlo
	June 2015	Amajuba DM, eMadlangeni, Ingwe, uPhongolo, Uthukela DM, uThungulu DM and Vulamehlo
Rural Roads Assets Management Systems Grant	June 2015	Amajuba DM and Uthukela DM

Source: Local Government Database

Annexure G: 2014/15 Verification of Figures for Quarter 4

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 four quarterly verification schedules, namely:

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

As the quarterly verification started on 24 July 2015, the municipalities are required to ensure that the figures published by National Treasury are reliable by scrutinising, verifying and signing-off the verifications schedules sent to them by National Treasury. The municipalities are reminded to resubmit accurate monthly returns and submit the signed verification schedules to National Treasury and copy Provincial Treasury by 30 July 2015 before the closure of the Local Government Database.

Annexure H: 2014/15 Mid-Year Budget and Performance Assessment

Section 72(1)(a) of the MFMA requires that the Accounting Officer of a municipality assesses the performance of the municipality for the first half of the financial year. A report on such assessment must be done and submitted to the Mayor of the municipality, the National Treasury and the relevant Provincial Treasury by 25 January of each year as per Section 72(1)(b) of the MFMA.

Provincial Treasury issued Circular TC/RM 5 of 2014/15 on 17 December 2014 to all delegated municipalities, reminding municipalities on the date of submission, format and other necessary information regarding the preparation of Mid-Year Budget and Performance Assessment Report.

Table 7 shows the municipalities which did not submit the Mid-Year Budget and Performance Assessment Reports by the prescribed deadline of 25 January 2015.

Table 7: List of the municipalities that did not submit Mid-Year Budget and Performance Assessment Reports as at 25 January 2015

Non Compliant Municipalities	Non Compliant Municipalities	Non Compliant Municipalities
Umvoti	Nquthu	Nongoma

Source: KZN Provincial Treasury

Annexure I: 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 MFMA 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, which-ever occurs first.

As at 20 July 2015, the municipalities shown in Table 8 have not placed majority of the required documents on their websites:

Table 8: List of the municipalities that did not place majority of the required documents on their websites

Non Compliant Municipalities	Non Compliant Municipalities	Non Compliant Municipalities	Non Compliant Municipalities
Vulamehlo	uMgungundlovu DM	Mfolozi	Ntambanana
uMuziwabantu	Nkandla	Umlalazi	Nongoma
uMngeni	Hlabisa	Mpofana	Impendle
Amajuba DM	Harry Gwala DM		

Source: Municipal Websites

Annexure J: Financial Management Grant (FMG) Conditions/Appointment of Municipal Interns

In terms of the Financial Management Grant (FMG) conditions published in the 2014 DoRA, the grant may be utilised for amongst others, 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 20 July 2015, the municipalities shown in Table 9 have not appointed five interns.

Table 9: List of the municipalities that did not appoint five interns

Non Compliant Municipalities	Non Compliant Municipalities
Vulamehlo	Ugu DM
Richmond	uMgungundlovu DM
eMadlangeni	Umvoti
Mthonjaneni	Abaqulusi
Ezinqoleni	Ingwe
KwaDukuza	

Source: KZN Provincial Treasury

Annexure K: 2014/15 MFMA Competency Level Return (S1 and S2)

Section 14(1) of the Municipal Regulations on Minimum Competency Levels states that *the municipal manager of the municipality and chief executive officer of a municipal entity must monitor the compliance with the prescribed minimum competency levels of financial and supply chain management officials.* Section 14(2) states further *that such information must be reported to National Treasury and relevant Provincial Treasury by 30 January and 30 July of each year.*

As at 20 July 2015, municipalities shown in Table10 have not submitted the relevant return pertaining to the minimum competency levels for the first half of 2014/15 financial year, which was due on 30 January 2015.

Municipalities are reminded to submit the return pertaining to the minimum competency levels (S2) for the second half of the 2014/15 financial year as it falls due on **30 July 2015.**

Table 10: List of the municipalities that have not submitted the minimum competency levels return (S1)

Non Compliant Municipalities	Non Compliant Municipalities
eMadlangeni	Ntambanana
Nongoma	uMuziwabantu

Source: Local Government Database