



treasury

Department

Treasury

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OFFICE OF THE MEC FOR FINANCE

Our reference: M-3/2/1/66 Circulars

Inkomba yethu:

Ons verwysing:

Date: 24 August 2020

Usuku:

Datum:

Please quote our reference on all correspondence

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

PROVINCIAL TREASURY CIRCULAR PT/MF 2 OF 2020/21

NON-COMPLIANCE WITH THE MFMA REPORTING REQUIREMENTS

Provincial Treasury issues circulars to Mayors to highlight non-compliance with the Municipal Finance Management Act, Act No. 56 of 2003 (MFMA) and the Division of Revenue Act, Act No. 1 of 2019 (DoRA) reporting requirements. Despite the issuing of non-compliance circulars in previous years by my office, it is of serious concern that a number of municipalities in KwaZulu-Natal are still not fully complying with all the reporting requirements of the MFMA and DoRA.

Following the reports submitted for the fourth quarter of the 2019/20 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 and/or are submitting reports for compliance purposes only without ensuring accuracy of the information submitted.

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

- Section A: 2019/20 Section 71 Monthly Data Strings;
- Section B: 2019/20 Quarterly Returns/ Data Strings;
- Section C: 2019/20 Verification of figures for Quarter 4;
- Section D: 2019/20 Mid-Year Budget and Performance Assessment Report;
- Section E: 2019/20 Adjustments Budget Process;
- Section F: Publication of MFMA Section 75 Information on Municipal Websites;
- Section G: Financial Management Grant (FMG) Conditions/Appointment of Municipal Interns;
- Section H: Tabling of the *Time schedules outlining key deadlines* for the 2020/21 budget preparation process;
- Section I: 2020/21 Tabled (Draft) Budget Process; and
- Section J: 2020/21 Approved Budget Process.

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 by the municipalities.

Support provided to municipalities includes, but is not limited to the following: sending the exception reports drawn from National Treasury Database reflecting the status of compliance by all the delegated municipalities on a weekly basis; discussing the status of compliance with the municipalities during various bilateral engagements as well as frequent reminders to municipalities to submit outstanding documents through telephonic and email correspondence. Provincial Treasury also provided technical support when requested by the municipalities.

Provincial Treasury will consider the following steps, should the non-compliance by municipalities persist going forward:

1. Notify the Auditor-General of the municipality's failure to comply with the relevant MFMA and DoRA reporting requirements;
2. Recommend to the concerned municipality's Council to consider 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 the 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 the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings where the municipality fails to investigate allegation of financial misconduct in terms of Section 171(4) of the MFMA; and
4. Explore options to stop all transfers to the municipality for breach of their reporting obligations.

During the 2019/20 financial year, Provincial Treasury reported non-compliance with both the MFMA and DoRA reporting requirements to the KwaZulu-Natal Provincial Legislature. It is 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.

KwaZulu-Natal Provincial Treasury therefore urges all municipalities to ensure full compliance with all the reporting requirements in terms of the MFMA and DoRA in the 2020/21 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 Local Government Database (LG database). Should your municipality dispute any of the information reflected in the various sections, please provide both the Provincial and National Treasuries with the evidence to confirm any discrepancy.

Please direct any enquiries to the Chief Director: Municipal Finance Management: Mr. Farhad Cassimjee on the following e-mail address: farhad.cassimjee@kzntreasury.gov.za

Yours sincerely



MR R PILLAY
MEC FOR FINANCE – KZN

cc: Mr. J. Hattingh, National Treasury
Mr. T.V. Pillay, National Treasury
Ms. N. Shezi, Acting Head of Department: KZN Provincial Treasury
Ms. N. Mhlongo, Business Executive (Auditor-General)

Section A: 2019/20 Section 71 Monthly Data strings

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; and
- (f) actual expenditure of those allocations, excluding expenditure on-
 - (i) its share of the local government equitable share; and
 - (ii) allocations exempted by the annual Division of Revenue Act from compliance with this paragraph.

Table 1 shows the list the municipalities that did not submit their monthly data strings for the respective months in compliance with Section 71(1) of the MFMA, i.e. **by the 10th working day after the end of each of these months**, the municipalities listed in Table 1 would not have successfully uploaded their data strings onto the National Treasury LG portal/database.

Table 1: List of municipalities that did not submit the monthly data strings by 10th working day of the respective months

Name of datastring	Period	Non-Compliant Municipalities
In Year Monthly datastrings	July 2019	uPhongolo
	August 2019	Amajuba DM, Nquthu, uPhongolo
	September 2019	Amajuba DM, Nquthu, uPhongolo
	October 2019	uPhongolo
	November 2019	uPhongolo, Mtubatuba
	December 2019	iMpendle, uPhongolo, Mtubatuba
	January 2020	uPhongolo
	February 2020	uPhongolo
	March 2020	uPhongolo
	April 2020	uPhongolo
	May 2020	uPhongolo
	June 2020	Dannhauser, Mpofana, uPhongolo
Debtors Monthly datastrings	July 2019	Amajuba DM, Ray Nkonyeni, Nquthu, Inkosi Langalibalele, uPhongolo
	August 2019	Amajuba DM, Nquthu, Inkosi Langalibalele, uPhongolo
	September 2019	Amajuba DM, Ray Nkonyeni, Nquthu, Inkosi Langalibalele, uPhongolo
	October 2019	Amajuba DM, iMpendle, Inkosi Langalibalele, uPhongolo
	November 2019	Amajuba DM, Dannhauser, Mpofana, uMgungundlovu DM, Inkosi Langalibalele, uMlalazi, uPhongolo
	December 2019	Amajuba DM, Dannhauser, Mpofana, Mtubatuba, Inkosi Langalibalele, uMlalazi, eDumbe, uPhongolo
	January 2020	Amajuba DM, uPhongolo
	February 2020	Dannhauser, uPhongolo
	March 2020	Mkhambathini, uPhongolo
	April 2020	Dannhauser, Richmond, uPhongolo
	May 2020	Amajuba DM, Nquthu, uPhongolo
	June 2020	Amajuba DM, Mpofana, uPhongolo

Source: Local Government Database

Table 1: List of municipalities that did not submit the monthly data strings by 10th working day of the respective monthscont'd

Name of datastring	Period	Non-Compliant Municipalities
Creditors Monthly datastrings	July 2019	uPhongolo
	August 2019	Nquthu, uPhongolo
	September 2019	Amajuba DM, Nquthu, uPhongolo
	October 2019	iMpendle, uPhongolo, Richmond
	November 2019	Dannhauser, uPhongolo, Mpošana
	December 2019	Dannhauser, Mpošana, Mtubatuba, eDumbe, uPhongolo
	January 2020	uPhongolo
	February 2020	uPhongolo
	March 2020	iMpendle, uPhongolo
	April 2020	Dannhauser, uPhongolo
	May 2020	uPhongolo
	June 2020	Mpošana, uPhongolo

Source: Local Government Database

Section B: 2019/20 Quarterly Returns/ Data Strings

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 quarterly borrowing and investments information in the form of data strings must be uploaded to the LG portal/database. Table 2 shows the list of municipalities that did not submit the required quarterly returns by the 10th working day after the end of each quarter.

Table 2: List of municipalities that did not submit the different quarterly returns/data strings for the 2019/20 financial year in the respective quarter

Quarter	Borrowings Monitoring		Investment Monitoring	
Quarter 1	Dannhauser	Nquthu	Ugu DM	uPhongolo
	Ugu DM	uPhongolo	Amajuba DM	
	Amajuba DM		Dannhauser	
Quarter 2	Mpošana	uThukela DM	Mpošana	uPhongolo
	Richmond	Nkandla	Richmond	
	uMshwathi	uPhongolo	uMshwathi	
	Mtubatuba		Mtubatuba	
Quarter 3	Nkandla	uPhongolo	Dannhauser	uMgungundlovu DM
	Richmond		Greater Kokstad	uMsinga
	uMgungundlovu DM		Mpošana	Nkandla
	uMsinga		Richmond	uPhongolo
Quarter 4	Mpošana	uPhongolo	Amajuba DM	Nkandla
	Richmond	eDumbe	Mpošana	eDumbe
	uMshwathi	Amajuba DM	Richmond	uPhongolo
	Nkandla		uMshwathi	

Source: Local Government Database

Section C: 2019/20 Verification of figures for Quarter 4

Provincial Treasury is concerned about the reliability of the budget and expenditure figures published by National Treasury. It was noted in the past that there have been discrepancies in the data submitted to the LG 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 (Monthly In Year Monitoring);
- (b) Conditional Grants Actual Transfers and Expenditure Schedule;
- (c) Borrowing Monitoring Schedule; and
- (d) Investment Monitoring Schedule.

Table 3 lists the municipalities that did not submit the signed verifications schedule for Quarter 4.

Table 3: List of municipalities that did not submit the signed verification schedules for Quarter 4

Monthly In Year Monitoring	Conditional Grants	Borrowings Monitoring	Investment Monitoring
uMzinga	uMzinga	uMzumbe	uMzumbe
Amajuba DM	Amajuba DM	Mpofana	Mpofana
uPhongolo	uPhongolo	Richmond	iMpendle
		uMgungundlovu DM	Mkhambathini
		eMadlangeni	Richmond
		Amajuba DM	uMgungundlovu DM
		eDumbe	Nquthu
		uPhongolo	Amajuba DM
		Nkandla	eDumbe
		Mandeni	uPhongolo
			Nongoma
			uMlalazi
			Nkandla

Source: KZN Provincial Treasury

Section D: 2019/20 Mid-Year Budget and Performance Assessment Report

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 completed and submitted to the Mayor of the municipality, National Treasury and the relevant Provincial Treasury by 25 January of each year as per Section 72(1)(b) of the MFMA.

The Provincial Treasury issued Circular PT/MF 06 of 2019/20 dated 18 December 2019 to all delegated municipalities, reminding municipalities on the date of submission, format and other necessary information regarding the preparation of the 2019/20 Mid-Year Budget and Performance Assessment Report.

Submission of the 2019/20 Mid-Year Budget and Performance Assessment Reports

Table 4 shows the three municipalities that did not submit their 2019/20 Mid-Year Budget and Performance Assessment Reports by the prescribed deadline of 25 January 2020 to Provincial Treasury.

Table 4: List of municipalities that did not submit their Mid-Year Budget and Performance Assessment Reports as at 25 January 2020

Non-Compliant Municipalities	Non-Compliant Municipalities	Non-Compliant Municipalities
eDumbe	Nquthu	uThukela DM

Source: KZN Provincial Treasury

Subsequent to Provincial Treasury issuing non-compliance letters to the three municipalities, the uThukela District Municipality submitted their Mid-Year Budget and Performance Assessment report on 27 January 2020 while the eDumbe and Nquthu Local Municipalities submitted their reports on 28 and 29 of January 2020 respectively.

Alignment of the figures in the 2019/20 Mid-Year Budget and Performance Assessments Reports to the figures reflected in the MFMA Section 71 reports

The Circular PT/MF 6 of 2019/20 dated 18 December 2019 issued by Provincial Treasury, amongst others emphasised the importance of ensuring perfect alignment between the figures reflected in the MFMA Section 71 Reports for the first six months of the financial year and the figures reflected in the MFMA Section 72 Mid-Year Budget and Performance Assessment Reports submitted to the Mayor, National Treasury and Provincial Treasury.

Despite this request, the Section 71 Reports for the first 6 months of the financial year submitted by all 51 delegated municipalities were not fully aligned to the MFMA Section 72 Mid-Year Budget and Performance Assessment Reports submitted to the Mayor, National Treasury and Provincial Treasury.

Tabling of the 2019/20 Mid-Year Budget and Performance Assessment Reports

All delegated municipalities tabled their 2019/20 Mid-Year Budget and Performance Assessments to Council by 31 January 2020 as required by Section 54(1)(f) of the MFMA.

Uploading of the 2019/20 Mid-Year Budget and Performance Assessment Reports to the municipal websites

The three municipalities shown in Table 5 did not upload their 2019/20 Mid-Year Budget and Performance Assessments Reports on their municipal websites within five working days of 25 January 2020, thereby contravening Regulation 34(1) of the MBRR read together with Section 75(2) of the MFMA.

Table 5: List of the municipalities which did not upload their Tabled Mid-Year Budget and Performance Assessments Reports onto their websites within 5 working days of 25 January 2020

Non-Compliant Municipalities	Non-Compliant Municipalities	Non-Compliant Municipalities
iMpendle	Mtubatuba	uMgungundlovu DM

Source: KZN Provincial Treasury

Section E: 2019/20 Adjustments Budget Process

When an annual budget has been adjusted, the municipality is required to table their Adjustments Budget to Council at any time after the Mid-Year Budget and Performance Assessment Report has been tabled in Council but not later than 28 February of the current year as required by Regulation 23(1) of the MBRR.

Tabling of the 2019/20 Adjustments Budget

As at 28 February 2020, 48 of the 51 delegated municipalities tabled their 2019/20 Adjustments Budgets in Council. The uThukela District and uMkhanyakude District Municipalities as well as the Alfred Duma Local Municipality did not table their 2019/20 Adjustments Budgets by 28 February 2020 as required by Regulation 23(1) of the MBRR. All three municipalities had applied for an extension for the tabling of their Adjustments Budgets as per Section 27(1) of the MFMA which were approved by

the MEC for Finance in terms of Section 27(2) of the MFMA read together with Regulation 61 of the MBRR.

The Alfred Duma Local Municipality, the uMkhanyakude District Municipality and the uThukela District Municipality tabled their Adjustments Budgets on 05 March 2020, 06 March 2020 and 10 March 2020 respectively.

Submission of the 2019/20 Adjustments Budget

National Treasury's correspondence dated 24 February 2020 to all municipalities required that the mSCOA data string (ADJB) for the 2019/20 Adjustments Budget be uploaded onto LG portal by the 02 March 2020.

On the 3 March 2020, National Treasury exception report on the submission status showed that the three municipalities listed in Table 6 did not upload their data strings for 2019/20 Adjustments Budget by the National Treasury's required date of the 02 March 2020.

Table 6: List of the municipalities which did not upload their data strings for the Adjustments Budget by 02 March 2020

Non-Compliant Municipalities	Non-Compliant Municipalities
Jozini	uMgungundlovu DM
uPhongolo	

Source: KZN Provincial Treasury

Since the Alfred Duma Local Municipality, the uMkhanyakude District Municipality and the uThukela District Municipality had applied for an extension for the tabling their Adjustments Budgets after the 28 February 2020, these three municipalities submitted their ADJB subsequent to the tabling of their Adjustments Budgets, which was after the 02 March 2020.

Assessment of the 2019/20 Adjustments Budget

The 2019/20 Adjustments Budgets for the 18 municipalities listed in Table 7 were assessed by Provincial Treasury to be Unfunded.

Table 7: List of municipalities with Unfunded 2019/20 Adjustments Budgets

Name of municipality	Name of municipality	Name of municipality
Ugu DM	Mpofana	uMgungundlovu DM
iNkosi Langalibalele	uThukela DM	eNdumeni
Newcastle	Dannhauser	Amajuba DM
eDumbe	uPhongolo	Nongoma
Ulundi	Zululand DM	uMkhanyakude DM
uMfolozi	Nkandla	Harry Gwala DM

Source: KZN Provincial Treasury

Section F: Publication of MFMA 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:

- The annual and adjustments budgets and all budget-related documents;*
- all budget-related policies;*
- the annual report;*
- all performance agreements required in terms of Section 57(1)(b) of the Municipal Systems Act;*
- all service delivery agreements;*
- all long-term borrowing contracts;*
- 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 the 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 03 August 2020, the 13 municipalities shown in Table 8 had not placed the 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
uMuziwabantu	Dannhauser
Ray Nkonyeni	eDumbe
Mpoofana	Zululand DM
Richmond	Mtubatuba
Okhahlamba	uBuhlebezwe
iNkosi Langalibalele	Dr. Nkosazana Dlamini Zuma
Nquthu	

Source: Municipal Websites

Section G: Financial Management Grant (FMG) Conditions/Appointment of Municipal Interns

In terms of the Financial Management Grant (FMG) conditions published in the 2019 DoRA, the grant may be utilised for amongst others, appointing at least five interns in local municipalities and three interns in metropolitan and district municipalities over a multi-year period.

As at 03 August 2020, the 10 municipalities shown in Table 9 had not appointed the required number of interns.

Table 9: List of municipalities which did not appoint the required number of interns

Non-compliant Local Municipality	Non-compliant Local Municipality	Non-compliant District Municipality
uMzumbhe	Dr. Nkosazana Dlamini Zuma	AbaQulusi
eNdumeni	uBuhlebezwe	uMlalazi
uPhongolo	uMsinga	Mthonjaneni
Amajuba DM		

Source: KZN Provincial Treasury

Section H: Tabling of the Time schedules outlining key deadlines for the 2020/21 budget preparation process

Section 21(1)(b) of the MFMA requires the Mayor of a municipality to table in the municipal Council at least 10 months before the start of the budget year, a *Time schedule outlining key deadlines* for the budget process. One of the objectives of this section is to ensure that the budget preparation process commences timeously and complies with all the legislative requirements.

The uMgungundlovu District Municipality, the Nquthu Local Municipality and the Dannhauser Local Municipality did not respond to various requests from Provincial Treasury requesting confirmation that the municipalities had tabled their 2020/21 *Time schedule outlining key deadlines* by 31 August 2019.

The respective Mayors were notified of the non-compliance with Section 74 and the possible non-compliance with Section 21(1)(b), Section 27(1) and Section 27(3) of the MFMA in the letters sent to them dated 26 September 2019. It was subsequently confirmed that the Nquthu Local Municipality tabled their *Time schedule outlining key deadlines* on 16 August 2019.

46 of the 51 delegated municipalities timeously tabled their *Time schedule outlining key deadlines* by 31 August 2019 as per the requirements of the MFMA. Table 10 shows the five municipalities that did not table their *Time schedule outlining key deadlines* by the prescribed deadline of 31 August 2019 and all were issued with non-compliance letters.

All the municipalities shown in Table 10 subsequently tabled their *Time schedule outlining key deadlines* in Council.

Table 10: Municipalities which did not table their 2020/21 Time schedules outlining key deadlines by 31 August 2019

Non-Compliant Municipalities	Non-Compliant Municipalities
Richmond	New castle
uMgungundlovu DM	uPhongolo
Dannhauser	

Source: KZN Provincial Treasury

Municipalities are reminded to ensure that their 2021/22 *Time schedules outlining key deadlines* for the budget process are tabled in Council by 31 August 2020 in terms of Section 21(1)(b) of the MFMA.

Section I: 2020/21 Tabled (Draft) Budget Process

Section 16(2) of the MFMA states that *the Mayor of the municipality must table the annual budget at a Council meeting at least 90 days before the start of the budget year.*

Submission of the 2020/21 Tabled Budget

Section 22(b)(i) of the MFMA requires that immediately after an annual budget is tabled in a municipal Council, the annual budget must be submitted to National and Provincial Treasury in both PDF and electronic formats. As per MFMA Budget Circular No. 98, the date for the submission of the PDF and electronic copies was 01 April 2020 if a municipality tabled on 31 March 2020.

The advent of COVID-19 and the declaration of the National State of Disaster on 15 March 2020 and the initial 21 Day Lockdown gazetted on 25 March 2020 by the National Minister of the Department of Cooperative Governance and Traditional Affairs, resulted in a government notice no. 43181 being issued by National Treasury which exempted municipalities and municipal entities from certain provisions of the MFMA, including Section 16(2) and Section 22(b)(i).

Due to the exemption from complying with the requirements of these sections of the MFMA, municipalities were not issued with non-compliance letters where the requirements in terms of Section 22(b)(i) as mentioned above were not met, however, the tabling and submission of the Tabled (Draft) Budget were monitored by Provincial Treasury.

Section J: 2020/21 Approved Budget Process

Section 24(1) of the MFMA states that the municipal Council must at least 30 days before the start of the budget year consider approval of the annual budget, while Section 25(1) of the MFMA stipulates that if a municipal Council fails to approve an annual budget, including revenue-raising measures necessary to give effect to the budget, the Council must reconsider the budget and again vote on the budget, or on an amended version thereof, within seven days of the Council meeting that failed to approve the budget.

Due to the exemption from complying with the requirements of the different provisions of the MFMA as mentioned above, municipalities were not issued with non-compliance letters where these requirements were not met, however, the approval of the 2020/21 Budgets was monitored by Provincial Treasury in an effort to ensure that all 51 delegated municipalities in the province approve their 2020/21 Budgets before the start of the financial year (1st July 2020).

All 51 delegated municipalities in the province subsequently approved their 2020/21 Budgets before the start of the budget year in compliance with Section 24(2)(a) of the MFMA.