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Enquiries: Mr. F. Cassimjee

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**To: MUNICIPAL MANAGERS
CHIEF FINANCIAL OFFICERS
KWAZULU-NATAL (KZN) MUNICIPALITIES**

PROVINCIAL TREASURY CIRCULAR PT/MF 09 OF 2021/22

NON-COMPLIANCE WITH THE MFMA REPORTING REQUIREMENTS

In terms of Section 5(4)(a)(i) of the Municipal Finance Management Act, Act No. 56 of 2003 (MFMA), the Provincial Treasury is required to monitor compliance with the MFMA by municipalities. As part of the monitoring framework established by Provincial Treasury in order to fulfill its mandate in terms of Section 5(4)(a)(i) of the MFMA, guidelines and circulars are issued to municipalities to promote compliance with the MFMA and the Division of Revenue Act (DoRA) and support is provided to municipalities to prevent non-compliance with the MFMA and the DoRA. A crucial aspect of the monitoring framework involved the issuing of non-compliance letters to municipalities that did not adhere to the requirements of the MFMA and DoRA during the various processes over the course of the year.

The purpose of the Provincial Treasury non-compliance circular is to:

- Provide a status of the non-compliance with the MFMA and the DoRA for the various key processes and reporting requirements in the first six months of 2021/22 financial year;
- Highlight the main areas of non-compliance to enable municipalities to develop and implement relevant procedures and internal controls within their monitoring and reporting processes to avoid any future contravention of the MFMA and DoRA. For example, ensure that reports and documents are reviewed by senior municipal officials for accuracy and completeness before submission to National and Provincial Treasuries; and
- List the municipalities that did not comply with the MFMA and DoRA to enable the leadership of the non-compliant municipalities to implement consequence management in instances of persistent non-compliance with the provisions of the MFMA and DoRA.

Despite all the support provided as detailed below and notifying municipalities of the areas of non-compliance via the issuing of non-compliance letters and 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 second quarter of the 2021/22 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 the accuracy of the information submitted.

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 current financial year. The officials from Provincial Treasury will continue to assist and support their designated municipalities to enforce full compliance by all municipalities and will continue to notify municipalities of the areas of non-compliance via the issuing of non-compliance letters in terms of our mandate relating to Section 5(4)(a)(i) of the MFMA.

It should also be noted that our source of information is the National Treasury 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.

The following sections 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 the municipalities that did not fully comply with those reporting requirements:

- Section A: 2021/22 MFMA Section 71 Monthly data strings;
- Section B: 2021/22 Quarterly data strings;
- Section C: 2021/22 Mid-Year Budget and Performance Assessment;
- Section D: Publication of MFMA Section 75 Information on Municipal Websites;
- Section E: Financial Management Grant (FMG) Conditions/Appointment of Municipal Interns;
- Section F: Tabling of the Time schedules outlining key deadlines for the 2022/23 budget preparation process; and
- Section G: 2021/22 Service Delivery and Budget Implementation Plan (SDBIP).

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 and is not limited to the following: sending the exception reports drawn from the National Treasury LG Database reflecting the status of compliance by all the delegated municipalities on a weekly basis; engaging municipalities on the status of compliance on an ongoing basis during the year 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.

In a bid to enforce compliance by municipalities, Provincial Treasury will continue to:

1. Report non-compliance with the MFMA and DoRA to the KwaZulu-Natal Provincial Legislature for their consideration and further action via the quarterly MFMA Section 71(7) Reports;
2. Report non-compliance with the MFMA and DoRA to National Treasury for their consideration in invoking Section 38 of the MFMA which empowers National Treasury to withhold a municipality's Equitable share transfer if the municipality commits a serious breach of the measures established in terms of Section 216(1) of the Constitution which includes reporting obligations set out in the MFMA; and
3. Notify the Auditor-General of the municipality's failure to comply with relevant MFMA and DoRA reporting requirements.

Provincial Treasury may also consider recommending 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 and DoRA reporting requirements in order to promote consequence management.

Yours sincerely



Ms. N. Shezi

Acting Head of Department: KZN Provincial Treasury

CC Mayors

Mr. J. Hattingh - National Treasury

Mr. T.V. Pillay - National Treasury

Ms. N. Mhlongo, Business Executive Leader (Auditor-General)

Administrators

Section A: 2021/22 MFMA 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.*

It should be noted that municipalities were allowed to submit outstanding monthly data strings or resubmit monthly data strings with errors to the LG Database Upload Portal up until the conclusion of the verification process for the relevant quarter to which the monthly data strings relate for the first six months of the 2021/22 financial year. The verification process required the Accounting Officers and Chief Financial Officers of the municipalities to sign off on the quarterly total of the monthly data strings to ensure that they were accurate and complete. It is important to note that the data strings cannot be submitted or resubmitted by the municipalities after the closure of the verification process as the LG Database is closed for submission at the end of the verification period. The closing date of the verification period for the second quarter of the 2021/22 financial year was 28 January 2022.

Furthermore, a municipality that submitted their data string with errors is regarded as non-submission as the municipality would not have successfully uploaded their data string to the LG Database Upload Portal.

Provincial Treasury officials engaged municipalities on an ongoing basis during the first six months of the financial year and during the verification process to ensure compliance by municipalities.

MFMA Section 71 monthly data strings were successfully uploaded into the LG Database Upload Portal by all the designated municipalities for the first six (6) months of the financial year by the conclusion of the verification process as at the end of the second quarter of the 2021/22 financial year.

Section B: 2021/22 Quarterly 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 Investment information in the form of data strings must be uploaded to the LG Database Upload Portal.

It should be noted that municipalities were allowed to submit outstanding quarterly data strings or resubmit quarterly data strings with errors to the LG Database Upload Portal up until the conclusion of the verification process for the relevant quarter. The verification process required the Accounting Officers and Chief Financial Officers of the municipalities to sign off on the quarterly data strings to ensure that they were accurate and complete. It is important to note that the data strings cannot be submitted or resubmitted by the municipalities after the closure of the verification process as the LG Database Upload Portal is closed for submission at the end of the verification period. The closing date of the verification period for the second quarter of the 2021/22 financial year was 28 January 2022.

Furthermore, a municipality that submitted their data string with errors is regarded as non-submission as the municipality would not have successfully uploaded their data string to the LG Database Upload Portal.

As at 28 January 2022, only the Mtubatuba Local Municipality did not successfully upload their Investment monitoring quarterly data string for quarter two of the 2021/22 financial year to the LG Database Upload Portal.

Section C: 2021/22 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 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.

Provincial Treasury issued Circular PT/MF 06 of 2021/22 dated 15 December 2021 to all delegated municipalities, reminding municipalities on the date of submission, format and other necessary information regarding the preparation of the 2021/22 Mid-Year Budget and Performance Assessment Report.

Submission of the 2021/22 Mid-Year Budget and Performance Assessment Reports

Table 1 shows the two municipalities which did not submit their 2021/22 Mid-Year Budget and Performance Assessment Reports by the prescribed deadline of 25 January 2022 to Provincial Treasury.

Table 1: List of municipalities that did not submit their Mid-Year Budget and Performance Assessment Reports as at 25 January 2022

Non-Compliant Municipalities	Non-Compliant Municipalities
uMkhanyakude DM	uMshwathi

Source: KZN Provincial Treasury

Subsequent to Provincial Treasury issuing non-compliance letters, the uMkhanyakude District Municipality and the uMshwathi Local Municipality submitted their reports on 28 January 2022 and 03 February 2022 respectively.

Alignment of the 2021/22 Mid-Year Budget and Performance Assessments Report figures to the figures reflected in MFMA Section 71 Reports

Circular PT/MF 6 of 2021/22 dated 15 December 2021 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 Report submitted to the Mayor, National Treasury and Provincial Treasury.

Despite this request, the MFMA Section 71 Reports for the first six months of the 2021/22 financial year submitted by all 51 delegated municipalities were not fully aligned to the figures as per the MFMA Section 72 Mid-Year Budget and Performance Assessment Reports submitted to the Mayors, National Treasury and Provincial Treasury.

Tabling of the 2021/22 Mid-Year Budget and Performance Assessment Reports

The three (3) municipalities reflected in Table 2 did not table their 2021/22 Mid-year Budget and Performance Assessment Reports to Council by 31 January 2022 as required by Section 54(1)(f) of the MFMA.

Table 2: List of municipalities that did not table their 2021/22 Mid-Year Budget and Performance Assessment Report to Council by 31 January 2022

Non-Compliant Municipalities	Non-Compliant Municipalities	Non-Compliant Municipalities
uMvoti	Amajuba DM	Mtubatuba

Source: KZN Provincial Treasury

Non-compliance letters were issued to the uMvoti and Mtubatuba Local Municipalities, as well as the Amajuba District Municipality for failing to table their Mid-Year Budget and Performance Assessment Reports to Council by 31 January 2022 in terms of Section 54(1)(f) of the MFMA as well as for failing to notify the MEC for Finance of a failure to comply with a time provision pertaining to an in-year report in terms of Regulation 65(1) of the MBRR.

The Mtubatuba and uMvoti Local Municipalities submitted applications in terms of Regulation 65(1) of the Municipal Budget and Reporting Regulations (MBRR) informing Provincial Treasury of the failure to table their Mid-Year Budget and Performance Assessment Reports on 01 February 2022 and 08 February 2022 respectively. The Amajuba District Municipality had not yet submitted an application to Provincial Treasury as at 11 February 2022, despite follow ups being made by Provincial Treasury in this regard.

In their Schedule G applications to the MEC for Finance, the uMvoti and Mtubatuba Local Municipalities indicated that the non-sitting of their Councils by 31 January 2022, was due to the governance challenges at Council level, whilst Provincial Treasury was informed that the Amajuba District Municipality could not convene the planned Council meeting of 31 January 2022 due to the sudden passing of their Speaker.

The Mtubatuba Local Municipality subsequently tabled their 2021/22 Mid-year Budget and Performance Report to Council on 04 February 2022, whilst the uMvoti Local Municipality in their notification in terms of Regulation 65(1) of the MBRR had requested for an extension to table their 2021/22 Mid-year Budget and Performance Report to Council by 31 March 2022. The MEC for Finance rejected the application for an extension until 31 March 2022 and approved an extension until 15 February 2022. As at 22 February 2022, the uMvoti Local Municipality had still not tabled its 2021/22 Mid-year Budget and Performance Report to Council as the planned Council meeting did not quorate.

The municipality indicated that it will attempt to table its 2021/22 Mid-year Budget and Performance Report to Council again on 25 February 2022. The Amajuba District Municipality tabled their 2021/22 Mid-year Budget and Performance Report to Council on 11 February 2022.

Uploading of the 2021/22 Mid-Year Budget and Performance Assessment Reports to the municipal websites

The uMshwathi Local Municipality did not upload their 2020/21 Mid-Year Budget and Performance Assessments Report on their municipal website within five days of 25 January 2022 thereby contravening Regulation 34(1) of the MBRR read together with Section 75(2) of the MFMA. The municipality was issued with a non-compliance letter on 02 February 2022 for failing to upload their Mid-Year Budget and Performance Assessment Report on the municipal website.

Section D: 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:

- a) *The annual and adjustments budgets and all budget-related documents;*
- b) *all budget-related policies;*
- c) *the 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 days after its tabling in Council or on the date on which it must be made public, whichever occurs first.*

As at 07 February 2022, the eleven municipalities shown in Table 3 had not placed three or more of the required documents as per Section 75(1)(a) to (l)(l) of the MFMA on their websites within five days.

Table 3: List of the municipalities that did not place majority of the required documents on their websites

Non-Compliant Municipalities	2020/21 Annual report	2021/22 Performance Agreements	2021/22 SDBIP published on website	Revised IDP	List of disposed assets	Long-term borrowing contracts published	SCM Contracts	PPP Agreements	MFMA Section 52(d) reports for 30 June 2021
uMdoni		×	×	×					
uMuziwabantu			×		×		×	×	×
Ray Nkonyeni		×			×	×		×	×
Richmond		×			×			×	×
iNkosi Langalibalele	×				×				×
eNdumeni	×				×				×
Nquthu	×				×				×
Newcastle	×				×				×
Dannhauser	×				×				×
eDumbe	×				×				×
uMfolozi	×				×				×

Source: Municipal Websites

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

In terms of the Financial Management Grant (FMG) conditions published in the 2021 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 10 February 2022, the 14 delegated municipalities shown in Table 4 had not appointed the required number of interns.

Table 4: List of municipalities which did not appoint the required number of interns

Non-compliant Local Municipality	Non-compliant Local Municipality	Non-compliant District Municipality
uMdoni	Dannhauser	uMkhanyakude DM
uMuziwabantu	AbaQulusi	Newcastle
Mpořana	Nongoma	Dr. Nkosazana Dlamini Zuma
iMpendle	uMhlabayalingana	uMvoti
Alfred Duma	Maphumulo	

Source: KZN Provincial Treasury

Section F: Tabling of the Time schedules outlining key deadlines for the 2022/23 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.

Non-compliance letters for non-tabling of the *Time schedules outlining key deadlines for the 2022/23* budget preparation process as per the legislated timeframes were sent to the seven municipalities listed in Table 5 below.

Of the 51 delegated municipalities, 44 municipalities timeously tabled their *Time schedule outlining key deadlines* by 31 August 2021 as per the requirements of the MFMA. Table 5 shows the seven (7) municipalities which did not table their *Time schedule outlining key deadlines* by the prescribed deadline of 31 August 2021 and all were issued with non-compliance letters.

Table 5: Municipalities which did not table their 2022/23 Time schedules outlining key deadlines by 31 August 2021

Non-compliant Local Municipality	Non-compliant Local Municipality	Non-compliant Local Municipality
uMngeni	eDumbe	Alfred Duma
Maphumulo	uMkhanyakude DM	
uMvoti	Ndwedwe	

Source: KZN Provincial Treasury

With the exception of the uMkhanyakude District Municipality, all the municipalities subsequently approved their *Time schedules outlining key deadlines* for the 2022/23 Budget preparation process.

Section G: 2021/22 Service Delivery and Budget Implementation Plan (SDBIP)

Section 53(1)(c)(ii) of the MFMA states 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.*

All the delegated municipalities approved their *Service delivery and budget implementation plans* timely as per the requirement of Section 53(1)(c)(ii) stated above. Furthermore, all the municipalities submitted these plans in both printed and electronic format as per Regulation 20(2)(b) of the MBRR to the National and Provincial Treasury.