



KWAZULU-NATAL PROVINCE

TREASURY
REPUBLIC OF SOUTH AFRICA

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

PROVINCIAL TREASURY CIRCULAR PT/MF 09 OF 2022/23

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), Provincial Treasury is required to monitor compliance with the MFMA by all delegated municipalities. As part of the monitoring framework established by Provincial Treasury in order to fulfil its mandate in terms of Section 5(4)(a)(i) of the MFMA, guidelines and circulars were issued to municipalities to promote compliance with the MFMA and the Division of Revenue Act (DoRA) and support was provided to municipalities to prevent non-compliance with the MFMA and 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 by the 51 delegated municipalities for certain key processes and reporting requirements in the first half of the 2022/23 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 prior to their 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.

It has been noted that, after considering the reports submitted for the first half of the 2022/23 financial year, 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.



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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, it is of serious concern that a number of municipalities in KZN are still not fully complying with some of the key budgeting and In-year monitoring and reporting requirements of the MFMA and DoRA.

During the 2022/23 financial year, Provincial Treasury reported key non-compliance to the KZN 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 Provincial Legislature for their consideration.

Provincial Treasury therefore urges all municipalities to ensure full compliance with all the reporting requirements in terms of the MFMA and DoRA in the 2022/23 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 in Section 5(4)(a)(i) of the MFMA.

It should also be noted that our source of information is the National Treasury GoMuni Portal. Should your municipality dispute any of the information reflected in the various sections, please provide both the National and Provincial Treasuries with the evidence to confirm any discrepancy.

The following sections list out some of the important MFMA budgeting and In-year monitoring and DoRA reporting requirements that have not been complied with by municipalities, together with a list of the municipalities who did not fully comply with those reporting requirements:

- Section A: 2022/23 MFMA Section 71 Monthly data strings;
- Section B: 2022/23 Quarterly data strings;
- Section C: 2022/23 Verification of figures for Quarters one and two;
- Section D: 2022/23 Mid-Year Budget and Performance Assessment;
- Section E: Publication of MFMA Section 75 Information on Municipal Websites;
- Section F: Financial Management Grant (FMG) Conditions/Appointment of Municipal Interns; and
- Section G: Tabling of the Time schedules outlining key deadlines for the 2023/24 budget preparation process.

In order to avoid any future contravention of the MFMA and the DoRA, you are required to ensure that your municipality develops and implements relevant processes and internal controls to ensure that your monthly, quarterly and annual data strings are timeously uploaded to the National Treasury GoMuni Upload Portal. It is vital that these data strings are reviewed by senior municipal officials to ensure the accuracy of the data strings uploaded to the National Treasury GoMuni Upload Portal.

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 the National Treasury GoMuni Portal reflecting the status of compliance by all the delegated municipalities on a weekly basis; engaging on 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.



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

1. Report key non-compliance with respect to budgeting, In-year monitoring and reporting requirements of the MFMA and DoRA to the KZN 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 budgeting and In-year monitoring and DoRA reporting requirements in order to promote consequence management.

Kind regards

Ms. C. Coetzee

Head of Department: KwaZulu-Natal (KZN) Provincial Treasury

CC Mayors

Ms. N. P. Nkonyeni - KZN MEC for Finance

Mr. J. Hattingh - National Treasury

Mr. T. V. Pillay - National Treasury

Ms. N. Mkhize - KZN Business Unit Leader (Auditor - General)

Administrators



Section A: 2022/23 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 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 National Treasury GoMuni Upload Portal.

During the first half of the financial year under review, the following municipalities listed in Table 1 did not fully comply with the MFMA Section 71 reporting requirements (i.e did not submit by the 10th working day of the relevant month or submitted with errors) and non-compliance letters were issued to the respective municipalities:

Table 1: List of municipalities that did not fully comply with Section 71 of the MFMA

No.	Name of Municipality	Non-submission	Submission with errors	Period
1	Dannhauser	Yes	N/A	July 2022
2	uMsinga	Yes	N/A	
3	uMfelozi	N/A	Yes	
4	uMkhanyakude DM	N/A	Yes	
5	Dr Nkosazana Dlamini Zuma	N/A	Yes	
6	uMuziwabantu	N/A	Yes	August 2022
7	Richmond	N/A	Yes	
8	eMadlangeni	N/A	Yes	
9	Newcastle	N/A	Yes	
10	uMsinga	N/A	Yes	
11	uMkhanyakude DM	N/A	Yes	
12	Dr Nkosazana Dlamini Zuma	N/A	Yes	
13	Zululand DM	Yes	N/A	September 2022
14	uMuziwabantu	N/A	Yes	
15	uMshwathi	Yes	N/A	
16	uMdoni	N/A	Yes	
17	Impendle	N/A	Yes	
18	uMlalazi	Yes	N/A	
19	uMhlabuyalingana	Yes	N/A	October 2022
20	Mthonjaneni	N/A	Yes	
21	Nkandla	N/A	Yes	
22	uMlalazi	N/A	Yes	
23	Jozini	Yes	N/A	November 2022
24	Nongoma	Yes	N/A	December 2022

Source: National Treasury GoMuni Portal



It should be noted that municipalities shown in Table 1 were allowed to submit all outstanding monthly data strings or resubmit monthly data strings with errors to the National Treasury GoMuni Upload Portal for the 2022/23 financial year, hence by 24 February 2023, all outstanding monthly data strings were successfully submitted.

Section B: 2022/23 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 prescribed that quarterly Borrowing and Investment information in the form of data strings must be uploaded to the National Treasury GoMuni 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 National Treasury GoMuni 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. The data strings cannot be submitted or resubmitted by the municipalities after the verification process as the National Treasury GoMuni 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 2022/23 financial year was 30 January 2023.

Furthermore, if a municipality submitted a data string with errors, it is regarded as a non-submission as the municipality would not have successfully uploaded their data string to the National Treasury GoMuni Upload Portal.

A non-compliance letter was issued to the iMpendle Local Municipality for submitting their Investments Monitoring data string with errors for the second quarter of the 2022/23 financial year.

Section C: Verification of figures for Quarters one and two of the 2022/23 financial year

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 National Treasury GoMuni Upload Portal by municipalities. To ensure that figures published by National Treasury are reliable, it is imperative that municipalities scrutinise, verify and sign-off the verifications schedules that are sent to them by National Treasury on a quarterly basis.

There are four quarterly verification schedules, namely:

- (a) Statement of Capital and Operating Expenditure (Monthly In - Year Monitoring);
- (b) Conditional Grants Transfers by National Treasury and Actual Payments made by the municipality;
- (c) Borrowing Monitoring Schedule; and
- (d) Investment Monitoring Schedule.

The eMadlangeni Local Municipality did not submit their Borrowing and Conditional Grants Schedules as at 20 February 2023. As indicated in Section B above, the iMpendle Local Municipality did not submit their Investments monitoring data string which is the source of information for the verification schedule, and was therefore unable to verify their figures for Investments.

Section D: 2022/23 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 2022/23 dated 15 December 2022 to all delegated municipalities, reminding municipalities of the date of submission, format and other necessary information regarding the preparation of the 2022/23 Mid-Year Budget and Performance Assessment Report.

- **Submission of the 2022/23 Mid-Year Budget and Performance Assessment Reports**

All 51 delegated municipalities submitted their 2022/23 Mid-Year Budget and Performance Assessment Reports by the prescribed deadline of 25 January 2023 to Provincial Treasury.

- **Alignment of the 2022/23 Mid-Year Budget and Performance Assessments Report figures to the figures reflected in MFMA Section 71 Reports**

Circular PT/MF 06 of 2022/23 dated 15 December 2022 issued by Provincial Treasury, amongst others emphasised the importance of ensuring perfect alignment between the figures reflected in the MFMA Section 71 data strings 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, with the exception of the AbaQulusi, Mandeni, uBuhlebezwe Local Municipalities as well as the iLembe District Municipality, the MFMA Section 71 data strings for the first six months of the 2022/23 financial year submitted by the remaining 47 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.

It is noted that certain municipalities experience challenges with their financial systems as well as with the capturing of financial data in accordance with the mSCOA segments. These problems cause errors in the submitted data strings as well as inaccuracies in the financial information related to misalignment, cash flow and balance sheet budgeting.

- **Tabling of the 2022/23 Mid-Year Budget and Performance Assessment Reports**

Fifty (50) out of 51 delegated municipalities tabled their 2022/23 Mid-year Budget and Performance Assessment Reports to Council by 31 January 2023 as required by Section 54(1)(f) of the MFMA. The uMkhanyakude District Municipality was issued with a non-compliance letter for contravening Section 54(1)(f) of the MFMA. The Mid-Year Budget and Performance Assessment Report was subsequently tabled to Council together with the 2022/23 Adjustments Budget on 28 February 2023 and a copy of the corresponding Council resolution was submitted to Provincial Treasury by the municipality.

- **Uploading of the 2022/23 Mid-Year Budget and Performance Assessment Reports to the municipal websites**

The uMkhanyakude District Municipality did not upload their 2022/23 Mid-Year Budget and Performance Assessment Report on their municipal website within five days of 25 January 2023 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 2023 for failing to upload their Mid-Year Budget and Performance Assessment Report on their municipal website.



Section E: 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 22 February 2023, the three municipalities shown in Table 2 had not placed the majority of the required documents as per Section 75(1)(a) to (l) of the MFMA on their websites within five days.

Table 2: List of the municipalities that did not place majority of the required documents on their websites

Non-Compliant Municipalities	2021/22 Annual report	Oversight report of prior year	Budget policies as per gazette 32141 Reg. 7&8	2022/23 Performance Agreements	All active service delivery agreements	2022/23 SDBIP published on website	Revised IDP	List of disposed assets	Long-term borrowing contracts published	SCM Contracts	Long term contracts beyond three years.	MFMA Section 52(d) reports for 31 December 2022
uMzumbhe	x	x			x		x			x	x	x
uMkhanyakude	x	x		x	x	x		x	x	x	x	x
Jozini	x	x			x					x	x	

Source: Municipal Websites

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

In terms of the conditions for the Financial Management Grant (FMG) published in the 2022 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 22 February 2023, the 10 delegated municipalities shown in Table 3 had not appointed the required number of interns.

Table 3: List of municipalities which did not appoint the required number of interns

No.	Name of Municipality	No.	Name of Municipality
1	uMzumbhe	6	Mtubatuba
2	Ray Nkonyeni	7	uMfolozi
3	Nquthu	8	Mthonjaneni
4	Newcastle	9	Greater Kokstad
5	Nongoma	10	Richmond

Source: KZN Provincial Treasury



Section G: Tabling of the Time schedules outlining key deadlines for the 2023/24 budget preparation process

Section 21(1)(b) of the MFMA requires the Mayor of a municipality to table in a 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.

In this regard, 46 of the 51 delegated municipalities timeously tabled their *Time schedules outlining key deadlines* by 31 August 2022 as per the requirements of the MFMA. Table 4 lists the municipalities which did not table their *Time schedules outlining key deadlines* by the prescribed deadline of 31 August 2022. Non-compliance letters were issued to four of these municipalities. The eNdumeni Local Municipality submitted a notification to Provincial Treasury in terms of Section 27(3) of the MFMA and Regulation 63 of the MBRR with regards to an actual non-compliance by the municipality for failure to table their *Time schedule outlining key*. The revised tabling date as well as the reasons provided by the eNdumeni Local Municipality for the non-compliance (as presented in the Schedule G form) resulting from the continuous delays and postponements of the scheduled meetings on 30 August 2022 and 31 August 2022 were noted by Provincial Treasury.

Table 4: Municipalities that did not table their 2023/24 Time schedules outlining key deadlines by 31 August 2022

No.	Name of Municipality	No.	Name of Municipality
1	eNdumeni	4	uMkhanyakude DM
2	Newcastle	5	iLembe DM
3	uPhongolo		

Source: KZN Provincial Treasury

All five non-compliant municipalities shown in Table 4 above subsequently tabled their *Time schedule outlining key deadlines* in Council and all 51 delegated municipalities submitted their *Time schedule outlining key deadlines* to Provincial Treasury.