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THE PRESIDENCY

No. 176

13 February 2004

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 56 of 2003: Local Government: Municipal Finance Management Act, 2003.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

(English text signed by the President.)
(Assented to 9 February 2004.)

ACT

To secure sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of government; to establish treasury norms and standards for the local sphere of government; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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SCHEDULE 35**CHAPTER 1****INTERPRETATION, OBJECT, APPLICATION AND AMENDMENT OF ACT****Definitions**

1. (1) In this Act, unless the context indicates otherwise— “accounting officer”—	40
(a) in relation to a municipality, means the municipal official referred to in section 60; or	

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- (b) in relation to a municipal entity, means the official of the entity referred to in section 93,
and includes a person acting as the accounting officer;
- “allocation”**, in relation to a municipality, means—
- (a) a municipality’s share of the local government’s equitable share referred to in section 214(1)(a) of the Constitution; 5
- (b) an allocation of money to a municipality in terms of section 214(1)(c) of the Constitution;
- (c) an allocation of money to a municipality in terms of a provincial budget; or
- (d) any other allocation of money to a municipality by an organ of state, including by another municipality, otherwise than in compliance with a commercial or other business transaction; 10
- “annual Division of Revenue Act”** means the Act of Parliament which must be enacted annually in terms of section 214 (1) of the Constitution;
- “annual report”**, in relation to a municipality or municipal entity, means an annual report contemplated in section 121; 15
- “approved budget”** means an annual budget—
- (a) approved by a municipal council; or
- (b) approved by a provincial or the national executive following an intervention in terms of section 139 of the Constitution, 20
- and includes such an annual budget as revised by an adjustments budget in terms of section 28;
- “Auditor-General”** means the person appointed as Auditor-General in terms of section 193 of the Constitution, and includes a person—
- (a) acting as Auditor-General; 25
- (b) acting in terms of a delegation by the Auditor-General; or
- (c) designated by the Auditor-General to exercise a power or perform a duty of the Auditor-General;
- “basic municipal service”** means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment; 30
- “board of directors”**, in relation to a municipal entity, has the meaning assigned to it in section 1 of the Municipal Systems Act;
- “Budget Forum”** has the meaning assigned in section 1 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997); 35
- “budget-related policy”** means a policy of a municipality affecting or affected by the annual budget of the municipality, including—
- (a) the tariffs policy which the municipality must adopt in terms of section 74 of the Municipal Systems Act;
- (b) the rates policy which the municipality must adopt in terms of legislation regulating municipal property rates; or 40
- (c) the credit control and debt collection policy which the municipality must adopt in terms of section 96 of the Municipal Systems Act;
- “budget year”** means the financial year for which an annual budget is to be approved in terms of section 16(1); 45
- “category”**, in relation to municipalities, means a category A, B or C municipality referred to in section 155(1) of the Constitution;
- “chief financial officer”** means a person designated in terms of section 80(2)(a);
- “councillor”** means a member of a municipal council;
- “creditor”**, in relation to a municipality, means a person to whom money is owing by the municipality; 50
- “current year”** means the financial year which has already commenced, but not yet ended;
- “debt”** means—
- (a) a monetary liability or obligation created by a financing agreement, note, debenture, bond or overdraft, or by the issuance of municipal debt instruments; or 55
- (b) a contingent liability such as that created by guaranteeing a monetary liability or obligation of another;
- “delegation”**, in relation to a duty, includes an instruction or request to perform or to assist in performing the duty; 60

- “**district municipality**” means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155(1) of the Constitution as a category C municipality;
- “**financial recovery plan**” means a plan prepared in terms of section 141;
- “**financial statements**”, in relation to municipality or municipal entity, means 5
statements consisting of at least—
- (a) a statement of financial position;
 - (b) a statement of financial performance;
 - (c) a cash-flow statement;
 - (d) any other statements that may be prescribed; and 10
 - (e) any notes to these statements;
- “**financial year**” means a year ending on 30 June;
- “**financing agreement**” includes any loan agreement, lease, instalment purchase contract or hire purchase arrangement under which a municipality undertakes to repay a long-term debt over a period of time; 15
- “**fruitless and wasteful expenditure**” means expenditure that was made in vain and would have been avoided had reasonable care been exercised;
- “**Head**”, in relation to the Municipal Finance Recovery Service, means a person—
- (a) appointed in terms of section 159 as the Head of the Service; or
 - (b) acting as the Head of the Service; 20
- “**irregular expenditure**”, in relation to a municipality or municipal entity, means—
- (a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170; 25
 - (b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;
 - (c) expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act 30 No. 20 of 1998); or
 - (d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality’s by-laws giving effect to such policy, and which has not been condoned in 35 terms of such policy or by-law,
- but excludes expenditure by a municipality which falls within the definition of “unauthorised expenditure”;
- “**investment**”, in relation to funds of a municipality, means—
- (a) the placing on deposit of funds of a municipality with a financial institution; 40
or
 - (b) the acquisition of assets with funds of a municipality not immediately required, with the primary aim of preserving those funds;
- “**lender**”, in relation to a municipality, means a person who provides debt finance to a municipality; 45
- “**local community**” has the meaning assigned to it in section 1 of the Municipal Systems Act;
- “**local municipality**” means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155(1) of the Constitution as a category B 50 municipality;
- “**long-term debt**” means debt repayable over a period exceeding one year;
- “**mayor**”, in relation to—
- (a) a municipality with an executive mayor, means the councillor elected as the executive mayor of the municipality in terms of section 55 of the Municipal Structures Act; or 55
 - (b) a municipality with an executive committee, means the councillor elected as the mayor of the municipality in terms of section 48 of that Act;
- “**MEC for finance**” means the member of the Executive Council of a province who is responsible for finance in that province; 60
- “**MEC for local government**” means the member of the Executive Council of a province who is responsible for local government in that province;
- “**Minister**” means the Cabinet member responsible for finance;

- “**month**” means one of the 12 months of a calendar year;
- “**multi-jurisdictional service utility**” has the meaning assigned to it in section 1 of the Municipal Systems Act;
- “**municipal council**” or “**council**” means the council of a municipality referred to in section 18 of the Municipal Structures Act; 5
- “**municipal debt instrument**” means any note, bond, debenture or other evidence of indebtedness issued by a municipality, including dematerialised or electronic evidence of indebtedness intended to be used in trade;
- “**municipal entity**” has the meaning assigned to it in section 1 of the Municipal Systems Act; 10
- “**Municipal Financial Recovery Service**” means the Municipal Financial Recovery Service established by section 157;
- “**municipality**”—
- (a) when referred to as a corporate body, means a municipality as described in section 2 of the Municipal Systems Act; or 15
- (b) when referred to as a geographic area, means a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);
- “**municipal manager**” means a person appointed in terms of section 82(1)(a) or (b) of the Municipal Structures Act; 20
- “**municipal service**” has the meaning assigned to it in section 1 of the Municipal Systems Act;
- “**Municipal Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- “**Municipal Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); 25
- “**municipal tariff**” means a tariff for services which a municipality may set for the provision of a service to the local community, and includes a surcharge on such tariff;
- “**municipal tax**” means property rates or other taxes, levies or duties that a municipality may impose; 30
- “**National Treasury**” means the National Treasury established by section 5 of the Public Finance Management Act;
- “**official**”, in relation to a municipality or municipal entity, means—
- (a) an employee of a municipality or municipal entity; 35
- (b) a person seconded to a municipality or municipal entity to work as a member of the staff of the municipality or municipal entity; or
- (c) a person contracted by a municipality or municipal entity to work as a member of the staff of the municipality or municipal entity otherwise than as an employee; 40
- “**organised local government**” means an organisation recognised in terms of section 2(1) of the Organised Local Government Act, 1997 (Act No. 52 of 1997), to represent local government nationally or provincially;
- “**overspending**”—
- (a) in relation to the budget of a municipality, means causing the operational or capital expenditure incurred by the municipality during a financial year to exceed the total amount appropriated in that year’s budget for its operational or capital expenditure, as the case may be; 45
- (b) in relation to a vote, means causing expenditure under the vote to exceed the amount appropriated for that vote; or 50
- (c) in relation to expenditure under section 26, means causing expenditure under that section to exceed the limits allowed in subsection (5) of that section;
- “**parent municipality**” has the meaning assigned to it in section 1 of the Municipal Systems Act;
- “**past financial year**” means the financial year preceding the current year; 55
- “**political office-bearer**”, in relation to a municipality, means—
- (a) the speaker, executive mayor, deputy executive mayor, mayor, deputy mayor or a member of the executive or mayoral committee of a municipality elected, designated or appointed in terms of a specific provision of the Municipal Structures Act; or 60
- (b) a councillor referred to in section 57(1) of this Act;
- “**political structure**”, in relation to a municipality, means—
- (a) the council of a municipality; or