

REPUBLIC OF SOUTH AFRICA

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# FISCAL RESPONSIBILITY BILL

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*(As introduced in the National Assembly (proposed section 76); explanatory summary of the Bill and prior notice of its introduction published in Government Gazette No. 43073 of 6 March 2020)*  
*(The English text is the official text of the Bill)*

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(MR GG HILL-LEWIS, MP)

**[B 5—2020]**

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# BILL

To promote fiscal responsibility by obligating the Republic of South Africa to reduce its debt levels and its exposure to debt; to introduce fiscal rules for the management of debt and government guarantees; to provide for reporting requirements; to provide for the review of the fiscal rules; to provide for certain exemptions from the fiscal rules; to increase transparency and fiscal responsibility; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

## Definitions

1. In this Act, unless the context indicates otherwise—
  - “**compensation of employees**” means the consolidated government expenditure on compensation of employees, which—
    - (a) includes salaries, wages and government funded benefits for employees; and
    - (b) does not include capitalised compensation;
  - “**expenditure ceiling**” means non-interest expenditure financed from the National Revenue Fund, but does not include expenditure related to the following:
    - (a) Payments for financial assets financed by the sale of assets in the same financial year;
    - (b) payment transactions linked to the management of debt; and
    - (c) direct charges that relate to specific payments made in terms of legislation that provides for the collection and transfer of receipts outside of the main budget;
  - “**extra-budgetary government institution**” means an institution that does not receive its funding through the parliamentary budgetary processes, but that nonetheless performs an integral role in delivering services of the national, provincial or local government, and includes the South African Revenue Service and the Commission for Conciliation, Mediation and Arbitration;
  - “**financial year**” means a 12-month period ending 31 March;
  - “**fiscal rules**” means the fiscal restrictions on budgeting and on the issuing of guarantees referred to in section 2;
  - “**government guarantees**” means combined assurances made in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No. 10 of 2009);
  - “**government institution**” means an entity that is empowered to legally secure an undertaking from the state in respect of a financial obligation, and includes—
    - (a) a department of state or administration in the national, provincial or local sphere of government;
    - (b) an extra-budgetary government institution; and
    - (c) a social security fund;
  - “**gross domestic product**” means the total value of all goods produced and services delivered within the borders of the Republic within a financial year;

- “**Minister**” means the cabinet member responsible for finance;
- “**National Assembly**” means the National Assembly referred to in section 42(1)(a) of the Constitution of the Republic of South Africa, 1996;
- “**net loan debt**” means the total of all outstanding domestic and foreign debt of the state, less the cash balance of the National Revenue Fund; 5
- “**primary balance on the main budget**” means the difference between revenue accruing to government and non-interest expenditure that, if in deficit, must be financed by government; and
- “**social security fund**” means a programme developed by a department of state or administration in the national, provincial or local sphere of government aimed at providing protection for members of society against economic and social distress through a series of public measures. 10

### Fiscal rules

2. The Minister must ensure that for the four financial years following the commencement of this Act— 15
- (a) where the net loan debt is between 50 per cent and 55 per cent of the gross domestic product—
- (i) the primary balance on the main budget is in surplus;
  - (ii) the surplus contemplated in subparagraph (i) is achieved by adjusting the expenditure ceiling; and 20
  - (iii) compensation of employees does not increase from the financial year 2021/2022;
- (b) where the net loan debt is between 55 per cent and 60 per cent of the gross domestic product—
- (i) the primary balance on the main budget is in surplus, and that the surplus is greater than in the previous financial year; 25
  - (ii) the surplus contemplated in subparagraph (i) is achieved by adjusting the expenditure ceiling; and
  - (iii) compensation of employees is decreased by five per cent per year, from the financial year 2021/2022; 30
- (c) where the net loan debt is greater than 60 per cent of the gross domestic product—
- (i) the primary balance on the main budget is in surplus, and that the surplus is greater than in the previous financial year;
  - (ii) the surplus contemplated in subparagraph (i) is achieved by adjusting the expenditure ceiling; and 35
  - (iii) compensation of employees is decreased by 10 per cent per year, from the financial year 2021/2022; and
- (d) government guarantees may not, as a percentage of gross domestic product, be more than the total of government guarantees for the previous financial year. 40

### Review of fiscal rules

3. (1) The Minister must—
- (a) review the fiscal rules within four years from the commencement of this Act, and thereafter regularly, but at least every four years; and
- (b) consult the Financial and Fiscal Commission when conducting a review contemplated in paragraph (a). 45
- (2) At least six months prior to the end of the period contemplated in subsection (1)(a), the Minister must table a report in the National Assembly setting out—
- (a) statistics for the period under review related to compliance with the fiscal rules; 50
  - (b) statistics for the period under review related to any exemptions that were applied for indicating whether such exemption was granted and whether the terms of the exemption were complied with;
  - (c) any other information that the Minister considered in the review contemplated in subsection (1); and 55
  - (d) any amendments that the Minister proposes to the fiscal rules.
- (3) The National Assembly must—
- (a) facilitate the involvement of the public when considering the report contemplated in subsection (2); and

- (b) at least one month prior to the end of the period contemplated in subsection (1)(a), approve an addition, amendment, renewal or repeal of one or more of the fiscal rules.

(4) The Minister must, prior to the end of the period contemplated in subsection (1)(a), by notice in the *Gazette* publish the addition, amendment, renewal or repeal of the fiscal rules approved by the National Assembly. 5

#### **Exemption from fiscal rules**

- 4. (1) The Minister may request to be exempted from complying with the fiscal rules.
- (2) A request in terms of subsection (1) must—
  - (a) be tabled in the National Assembly; 10
  - (b) specify the financial year in respect of which the exemption is sought; and
  - (c) provide reasons for the request.
- (3) The National Assembly must—
  - (a) consider the request for exemption within a reasonable period;
  - (b) resolve whether or not the request should be granted, subject to such 15 conditions as the National Assembly may resolve to impose;
  - (c) include the reasons for the decision contemplated in paragraph (b) in its resolution; and
  - (d) prioritise the vote on the resolution contemplated in paragraph (b).

#### **Report on compliance** 20

5. The Minister must, on an annual basis concurrently with the tabling of the national budget, table a report before the National Assembly indicating whether the fiscal rules were complied with or not in the relevant period, together with reasons for those outcomes, and recovery plans in the event of a failure to comply with the fiscal rules.

#### **Short title** 25

- 6. This Act is called the Fiscal Responsibility Act, 2020.

## **MEMORANDUM ON THE OBJECTS OF THE FISCAL RESPONSIBILITY BILL, 2020**

### **1. INTRODUCTION**

South Africa's debt levels have risen rapidly as a percentage of the gross domestic product ("GDP") between 2008/2009 and 2019. In 2008/2009, the national debt, measured as net loan debt, amounted to R525,6 billion or 21.8% of GDP. However, by the end of 2020/2021, the national debt, measured as net loan debt, will increase to R3.35 trillion, or 60.7% of GDP and will reach 67.5% of GDP in 2023/2024.

Until steps are taken to bring South Africa's debt levels under control in relation to our GDP, South Africa will never be able to allocate funding to areas most in need of support, including basic and higher education, social grants and health care. South Africa must commit itself to sustainable control over the fiscus.

### **2. OBJECTS OF THE BILL**

This Bill introduces statutory fiscal rules aimed at containing national debt and debt service costs in South Africa. These rules will be binding on government and will ensure that our macro-economic outlook improves, but will be flexible in order to permit the National Treasury to opt for a strategy that is most attainable and maintained in the long run.

This Bill also seeks to ensure that control over the fiscus is the subject of parliamentary oversight, and as such is transparent and reviewable.

### **3. CONTENTS OF THE BILL**

- 3.1** Clause 1 deals with definitions used in the Bill;
- 3.2** Clause 2 creates three fiscal rules related to net loan debt expressed as a percentage of gross domestic product and one related to government guarantees;
- 3.3** Clause 3 requires a review of the fiscal rules at least every four years, and sets out the process to be followed in this regard;
- 3.4** Clause 4 deals with the process to be followed by the Minister in applying for an exemption from the fiscal rules for any given year;
- 3.5** Clause 5 requires the Minister to table an annual report on compliance with the fiscal rules and their implementation, in the National Assembly;
- 3.6** Clause 6 provides for the short title.

### **4. FINANCIAL IMPLICATIONS FOR THE STATE**

None

### **5. PARLIAMENTARY PROCEDURE**

- 5.1** The Member proposes that the Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution since its content provides for the effective financial management of the economy and especially debt, as is provided for in section 215(1) of the Constitution. Section 76(4)(b) thus requires that the Bill follow a section 76 process as it deals with legislation envisaged in chapter 13 of the Constitution, which legislation also affects the financial interests of a province.

- 5.2** The Member is of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.



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