



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

Analysis of a recommended conditional transfer by the Portfolio Committee on Tourism from the Department of Tourism to South African Tourism; whether this constitute a subdivision of Vote 38 or not or a conditional grant

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Director: Dr Dumisani Jantjies

Authors: Dumisani Jantjies, Nelia Orlandi, Sbusisiwe Sibeko and Tshepo Moloi

Enquiries: azuydam@parliament.gov.za

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To obtain additional copies of this document, please contact:

Parliamentary Budget Office

4th Floor Parliament Towers

103-107 Plein Street

Parliament of the Republic of South Africa

Tel: +27 021 403 2360

Email: pboinfo@parliament.gov.za

1. Introduction

This brief is a response to the request on the part of Dr Sibusiso Khuzwayo, representing the Portfolio Committee on Tourism Content Advisory, for advice pertaining to the conditional transfer of Vote 38 to South African Tourism (SAT). In line with the request, the Portfolio Committee on Tourism has recommended that the 2023 Budget for Vote 38: Tourism be approved within the 2023 Budget Report, but no further funds should be transferred to South African Tourism until the following conditions have been met¹:

- The targets in the Annual Performance Plan of South African Tourism have been revised.
- The vacancies at an executive level of South African Tourism are filled.
- The delegation of authority taken by the Board in the letter of 27 April 2023 has been reversed and given back to the executives at South African Tourism

After carefully scrutinizing developments within the South African tourism sector, the Portfolio Committee on Tourism has concluded that the entity is dysfunctional and lacking in the basic principles of governance. The Committee's Content Advisor has then requested that the Parliamentary Budget Office (PBO) advise with regard to clarification of the following matters:

- Section 10 (5) of the Money Bills Amendment Procedure and Related Matters Act of 2009 on whether the transfers made by the Department of Tourism to South African Tourism are a subdivision of Vote 38 or not, and
- Whether the matters raised in Recommendation 6.1 in the Budget Report of the Committee amount to conditional appropriation.

Falling within the same Report, the Committee has made other recommendations² which do not directly impact upon the budget appropriation to the Vote 38: Tourism. Furthermore, in preparing this brief the Parliamentary Budget Office has relied upon, as amended, the Money Bills Amendment Procedures and Related Matters Act of 2009. The Office has also drawn upon the Public Finance Management Act of 1999 and Treasury regulations, as well as revisiting the 2023 Estimates of National Expenditure (ENE).

Given the pressing nature of the Portfolio Committee of Tourism's request, the Office then decided to focus its advice on two specific matters. Firstly, recommendations were made in relation to whether or not SAT is a sub-division of the Department of Tourism. Secondly, advice was given on whether or not the Committee can use the Money Bills Amendment Procedures and Related Matters Act to impose conditional appropriation on the Vote 38.

¹Recommendations 6.1 of the Committee Report: Report of the Portfolio Committee on Tourism for Budget Vote No 38: Tourism, dated 16 May 2023

² Other recommendations are from 6.2 to 6.10

2. South African Tourism

The Tourism Act of 2014 mandates the South African tourism sector to market South Africa both domestically and internationally as a preferred tourism and business events destination while monitoring and evaluating the performance of the tourism sector. In support of these recommendations, the entity will continue to prioritise support to domestic, regional, and international tourism over the MTEF period.

Over the period ahead, South African Tourism will focus its efforts on bidding to host events such as business meetings, conferences and exhibitions in rural areas and (small) towns in order to boost the tourism industry in the following 6 focal sectors: mining and minerals; manufacturing; travel and tourism; agriculture; finance; and wholesale and retail trade. For this work, R303 million has been allocated for research and R278 million for analytics.

The entity also plans to support bids to host 380 international and regional business events over the period ahead through an additional allocation of R303 million. Ensuring that visitors enjoy their experience is key to the entity's work, and it is central to South African Tourism's revitalisation plan is to assure that tourism establishments are of a high standard. As such, the number of graded establishments is expected to increase from 5,355 in 2022/23 to 5,805 in 2025/26 at a projected cost of R168.5 million over the medium term.

In the 2-3-year period ahead, the entity is set to derive 94.9 per cent (R4.4 billion) of its revenue through transfers from the department. The remainder will come from voluntary levies collected from the private sector, income from grading fees, exhibitions, and interest accumulated from investments.

The question remains of whether the matters raised in Recommendation 6.1 in the Budget Report of the Committee amount to Conditional Appropriation. In that vein, the Committee is supporting the appropriation of the funds to the entire vote. Therefore, the issue of the three conditions to be met then relates to the oversight function of the Department as regards the Entity.

3. Main Division and Subdivision

3.1. Main division

The Money Bills Amendment Procedures and Related Matters Act 2009 notes the following-

Another committee may advise a committee on appropriations inasmuch as a subdivision of a main division within a vote be appropriated conditionally to ensure that the money requested for the main division will be spent effectively, efficiently and economically, provided that:

- a) the committee must specify the conditions that need to be met before the committee on appropriations may recommend to the House that the funds be released;
- b) the Minister and the affected member of Cabinet must be given at least two days to respond to the proposed conditional appropriation, which response must be included in the report containing the recommendation; and
- c) the House must consider the recommendation of the committee on appropriations to release the funds within seven days after that committee reported to the House

The Money Bills Act does not currently provide for the definition of the *main division*.

In terms of the Public Finance Management Act and Treasury Regulation, the main division is defined as follows:³

³ National Treasury Guidelines on Budget Programmes, 2010

A budget "programme" is the main division within a department's budget that funds a clearly defined set of objectives based on the services or functions falling within the department's legislative and other mandates. It also constitutes a management unit established within a department responsible for the delivery of that defined set of services and functions.

A "sub-programme" is a constituent part of a programme that defines the services or activities which contribute to the achievement of the objective(s) of the programme of which it forms a part

"main division within a vote" means one of the main segments into which a vote is divided and which (a) specifies the total amount which is appropriated for the items under that segment; and (b) is approved by Parliament or a provincial legislature, as may be appropriate, as part of the vote.⁴

The entity known as South African Tourism is funded through a transfer from the Department of Tourism. In terms of the Public Finance Management Act (PFMA), the receipts of a transfer are required to satisfy specific conditions set out in the Act. South African Tourism is thus a schedule 3A entity in terms of PFMA. The 2023 Estimate National Expenditure further classifies the South African Tourism as a departmental agency.

4.Parliamentary Budget Office Considerations

According to the 2023 Estimates of National Expenditure, South African Tourism is not a division of Vote 38: Tourism but a Departmental Agency. Table1 illustrates how the SAT forms part of the Department transfers and subsidies.

Table 1: Vote 38 Subsidies and trends estimates

⁴ Public Finance Management Act of 1999

Transfers detail

Table 38.3 Vote transfers and subsidies trends and estimates

R thousand	Audited outcome				Adjusted appropriation	Average growth rate (%)	Average: Expenditure/ Total (%)	Medium-term expenditure estimate			Average growth rate (%)	Average: Expenditure/ Total (%)
	2019/20	2020/21	2021/22	2022/23				2019/20 - 2022/23	2023/24	2024/25		
Households												
Social benefits												
Current	5 277	1 038	2 929	–	-100.0%	0.2%	–	–	–	–	–	–
Employee social benefits	5 277	1 038	2 929	–	-100.0%	0.2%	–	–	–	–	–	–
Departmental agencies and accounts												
Departmental agencies (non-business entities)												
Current	1 358 033	426 199	1 562 137	1 333 682	-0.6%	91.2%	1 349 291	1 409 888	1 473 051	3.4%	85.2%	
Culture, Arts, Tourism, Hospitality and Sports	157	172	181	188	6.2%	–	194	203	212	4.1%	–	
Sector Education and Training Authority												
South African Tourism	1 354 161	423 027	1 297 038	1 329 206	-0.6%	85.8%	1 344 672	1 405 061	1 468 008	3.4%	84.9%	
Tourism incentive programme	–	–	258 000	–	–	5.0%	–	–	–	–	–	–
National tourism careers expo	3 715	–	3 918	4 288	4.9%	0.2%	4 425	4 624	4 831	4.1%	0.3%	
Technology Innovation Agency	–	3 000	3 000	–	–	0.1%	–	–	–	–	–	–
Households												
Other transfers to households												
Current	971	17 869	1 380	3 816	57.8%	0.5%	3 782	3 952	4 129	2.7%	0.2%	
Employee social benefits	37	–	–	–	-100.0%	–	–	–	–	–	–	–
Gifts and donations	10	30	10	–	-100.0%	–	–	–	–	–	–	–
Bursaries for non-employees	924	559	1 370	3 816	60.4%	0.1%	3 782	3 952	4 129	2.7%	0.2%	
Act of grace	–	17 280	–	–	–	0.3%	–	–	–	–	–	–
Foreign governments and international organisations												
Current	2 772	2 998	2 437	2 502	-3.4%	0.2%	2 582	2 698	2 819	4.1%	0.2%	
United Nations World Tourism Organisation	2 772	2 998	2 437	2 502	-3.4%	0.2%	2 582	2 698	2 819	4.1%	0.2%	
Non-profit institutions												
Current	413	–	431	443	2.4%	–	439	459	480	2.7%	–	
Federated Hospitality Association of South Africa	413	–	431	443	2.4%	–	439	459	480	2.7%	–	
Public corporations and private enterprises												
Other transfers to private enterprises												
Current	131 736	50 523	–	225 172	19.6%	7.9%	225 692	239 870	249 465	3.5%	14.4%	
Tourism incentive programme	131 736	50 523	–	225 172	19.6%	7.9%	225 692	239 870	249 465	3.5%	14.4%	
Total	1 499 202	498 627	1 569 314	1 565 615	1.5%	100.0%	1 581 786	1 656 867	1 729 944	3.4%	100.0%	

Section 4 of the 2023 Appropriations Bill then provides for conditions for appropriations:

The Minister may, in writing—(a) impose conditions on an amount in the Schedule, other than a conditional allocation, in order to promote transparency and accountability and the effective management of the appropriation; and (b) stop the use of an amount in respect of which conditions imposed in terms of paragraph (a) are not met.

Recommendation 6.1 in the Committee Budget Report should not then be regarded as an amendment to the Appropriations Bill.

Although the transfer to South African Tourism should not be regarded as a conditional grant, it is still unclear as to whether the Accounting Officer of Department of Tourism has attached conditions to any departmental transfers or payment schedules of both allocations. Given that South Africa Tourism is a department agency, section 10 (5) of the Money Bills Amendment Procedures and Related Matters Act

of 2009 may not be used by the Portfolio Committee on Tourism to recommend conditional allocations to the agency.

Instead, the Portfolio Committee on Tourism should consider other legislation or regulatory framework to realize its objective of imposing conditions on the agency' transfer, as set out in the 2023 Budget Report Recommendation 6.1. The following legislation and regulatory provisions may therefore be considered:

4.1. Public Finance Management Act of 1999;

Section 38. General responsibilities of Accounting Officers. —

(1) The accounting officer for a department, trading entity or constitutional institution—

j) before transferring any funds (other than grants in terms of the annual Division of Revenue Act or to a constitutional institution) to an entity within or outside government, must obtain a written assurance from the entity that that entity implements effective, efficient and transparent financial management and internal control systems, or, if such written assurance is not or cannot be given, render the transfer of the funds subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems;

Section 63. Financial responsibilities of Executive Authorities. —

(1) (a) Executive authorities of departments must perform their statutory functions within the limits of the funds authorised for the relevant vote

(2) The executive authority responsible for a public entity under the ownership control of the national or a provincial executive must exercise that executive's ownership control powers to ensure that that public entity complies with this Act and the financial policies of that executive

4.2. Treasury Regulations issued in terms of PFMA

Regulation 8.4. Transfers and subsidies (excluding Division of Revenue grants and other allocations to municipalities) [Section 38(1)(j) of the PFMA]

Specifically, 8.4.2 as the basis for the recommendations as currently provided for in section 6.1 of the Committee report

Section 8.4.2 An accounting officer may withhold transfers and subsidies to an entity if he or she is satisfied that-

- (a) conditions attached to the transfer and subsidy have not been complied with;
- (b) financial assistance is no longer required;
- (c) the agreed objectives have not been attained; and
- (d) the transfer and subsidy does not provide value for money in relation to its purpose or objectives.

5. The Portfolio Committee on Tourism 's Considerations

The Portfolio Committee on Tourism has recommended in the 2023 Budget Report that the 2023 Budget for Vote 38: Tourism be approved. However, no further funds should be transferred to South African Tourism until the certain conditions have been met. The Committee's Content Advisor has then requested that the Parliamentary Budget Office advise with regard to clarifying the following two matters. Firstly, whether or not the transfers made by the Department of Tourism to South African Tourism constitute a subdivision of Vote 38 in terms of the Money Bills Amendment Procedures and Related Matters Act of 2009. Secondly, whether or not the matters raised in the 2023 Budget Report of the Committee in recommendation 6.1 then amount to conditional appropriation.

The PBO advice to the Committee is then as follows:

- The Money Bills Amendment Procedures and Related Matters Act of 2009 does not define a subdivision inasmuch as section 10 (5) of the Act refer to such in considering or proposing a conditional allocation. The Office has relied upon other legislation - mainly PFM and Treasury Regulation - to define a main division and subdivision within the context of budget allocation. The Office has thus determined that in existing as an entity without specific definition within the Money Bills Act South African Tourism may not be considered to be a subdivision of the Department of Tourism. The Office has further relied upon the 2023 Estimates of National Expenditure classification of the South African Tourism as a Departmental Agency.
- Although the transfer to South African Tourism may not be regarded as a conditional grant, it is unclear as to whether the Accounting Officer of Department of Tourism has attached conditions to any departmental transfers or payment schedules of either allocation. Given that the South Africa Tourism is a department agency, the Money Bills Amendment Procedures and Related Matters Act of 2009, section 10 (5) may not be used by the Portfolio Committee on Tourism to recommend conditional allocations to the agency.

The Parliamentary Budget Office further recommends that the Portfolio Committee on Tourism consider other legislation or another regulatory framework to realise its objective of imposing conditions on the agency's transfer, as set out in the 2023 Budget Report Recommendation 6.1. In particular, PFMA section 38, 63 and 64 and Treasury Regulation 8.4 may be considered within the remit of the Accounting Officer of the Department of Tourism, including the Committee's conditions when transferring funds to the South African Tourism.

The Parliamentary Budget Office has consulted with the National Assembly Table and the Parliament Constitutional Legal Services Office. It is therefore recommended that the Portfolio Committee on Tourism 2023 Budget Vote 38 Report be adopted with a provision that recommendation 6.1 be referred to the Standing Committee on Appropriations for further consideration.