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INDEPENDENT BUDGET PROCESSES OF PARLIAMENT FOR IMPROVED ACCOUNTABILITY AND SCRUTINY OF PARLIAMENTARY BUDGET

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1. Introduction

Since the democratic dispensation in South Africa, government have developed progressive laws that embrace democratic values. These include the Constitution (Act no. 108 of 1996), which entrenches democratic rights and provides a core foundation for the functionality of the South African government. Among other things, the Constitution sets out structures of government, assigns powers and authority of government and spells out the citizens' rights. Underpinned in the Constitution are the delegation of powers and authority, and the doctrine of the separation of powers among the three spheres of government, namely, Legislature, Executive and Judiciary. These are enhanced by the checks and balances to ensure that no sphere of government abuses its powers. The Constitution further entrenches a culture of accountability in government as well as a degree of transparency in government budgeting and financial management. In addition, national legislative framework has been enhanced to translate these important principles into the budget process. The Public Finance Management Act (PFMA) of 1999 serves as a legislative cornerstone of the management of public funds and sets stringent transparency requirements including regular reporting and the assignment of accountability.

In enforcing its oversight responsibility and further clarifying the separation of powers, Parliament recently introduced new budget reforms. Two Acts of Parliament were enacted including the Financial Management of Parliament Act (FMPA). Among the objectives of this Act is to provide for parliamentary oversight of Parliament's budget and expenditure through an appropriate oversight mechanism of parliament.[1] It also spells out responsibilities of different role players in the budget process and the relationship with other state institutions, including National Treasury and the Auditor-General.

2. Parliamentary Budget Process

The parliamentary budget process is cyclical, it starts with the planning process and ends with the reporting process. It links the parliamentary programme with the budget cycle. The parliamentary budget process aligns strategic planning, monitoring and reporting with budget planning, monitoring and reporting. Parliament is required to formulate five-year strategic plans and annual performance plans, allocate resources to implement those plans and monitor and report on the results. In all these phases, different role players are assigned responsibilities and the FMPA guides them on the execution of such responsibilities. The planning, budgeting, monitoring and reporting cycle describes the relationship between these processes and emphasises the accountability lines of the budget process. The Act further

[1] Financial Management of Parliament Act (2009)

encourages transparency during the process and consultation with the Minister of Finance in some aspects of budgeting is required. Section 17 of the FMPA requires that the Executive Authority must consult the Minister of Finance in determining the processes of submitting Parliament's budgets to the National Treasury before these budgets are submitted to the National Treasury.[2]

Strategic and Operation plan

Strategic planning assists institutions in establishing longer term priorities. It assists in defining an organisation's strategy and direction, and in making decisions about the allocation of resources. In contrast, the operational plan defines short-term methods of achieving strategic objectives. The strategic plan indicates outputs to be produced and specifies performance indicators, while the operational plan sets performance targets.[3]

The FMPA requires the Accounting Officer to prepare and present to the Executive Authority a draft strategic plan of Parliament's administration. This is a long-term plan of five years which should include Parliament's priorities for the period. It should also include performance measurement information per programme, which is useful in assessing the performance of Parliament. The Accounting Officer is further required to prepare a three year-rolling performance plan, which should indicate any changes from the strategic plan. This plan provides performance information that assists in measuring both programme and institutional performance at the end of the cycle. Both strategic plan and annual performance plan are required to be tabled in Parliament by the Executive Authority for approval.

Annual Budget

A budget is a document that, once approved by the legislature authorises government institutions to raise revenue, incur debts and effect expenditures in order to achieve certain goals.[4] The budget should be responsive to policy direction, focus on the achievement of results and should promote openness, transparency and accountability. In line with these practices, the budget of Parliament is allocated to finance policy priorities as identified in both strategic and annual performance plans. The Act requires that a three-year rolling budget be prepared by the Accounting Officer and presented to the Executive Authority within ten months prior to the start of the financial year. In promoting transparency, such budget should disclose the revenue sources of Parliament and specify amounts allocated to Members of Parliament and political parties. Allocations to different divisions within the budget are required to be substantiated with detailed explanations and other information.

The Executive Authority is responsible for overseeing the preparation of Parliament's strategic plan, annual performance plan and budget. Prior submission of Parliament's budget

[2] Ibid

[3] National Treasury (2007)

[4] Andy Norton & Diane Elson (2002)

to the National Treasury, the Executive Authority must first consult the Minister of Finance in determining the process of submitting such budgets. The budget of Parliament and any revision to the budget are approved by Parliament for each financial year.

Budget Implementation and In-Year Monitoring

The Accounting Officer is responsible for the implementation of Parliament's budget. Parliamentary funds are spent in accordance with the approved budget and guidelines are provided in FMPA in dealing with instances where legislation is overridden during the budget implementation. However, the FMPA is flexible in dealing with Executive directives that have financial implications. It requires interactive consultation between the Executive Authority and Accounting Officer in dealing with any directives that might result in unauthorised expenditure.

The Act further provides for in-year reporting, including monthly financial statements, quarterly performance reports and mid-year budget and performance assessment. These provide useful information that highlights red flags in budget implementation and performance of parliamentary programmes. Both annual performance plans and annual budgets are used as a basis to measure the performance of Parliament. These reports are submitted to the Oversight Mechanism which is responsible for overseeing Parliament's expenditure. They assist oversight mechanism in ensuring that Parliament does not deviate from its sets goals. Any deviation from the set standards and budgets is detected through these reports and corrective measures can be promptly recommended to remedy the situation.

Annual Reporting

Annual reporting is a process of accounting for the achievement of set objectives as outlined in the plans. It also accounts for the utilisation of funds to achieve such objectives and subjects both programme and budget performance of an institution to public scrutiny. The parliamentary budget process is based on these core values. The FMPA requires that each financial year, the Accounting Officer must prepare an annual report accounting on the performance of Parliament and on the decisions taken during the year. Such a report is required to be based on the annual performance plan and should provide a detailed account on the utilisation of funds allocated to Parliament. In ensuring integrity of financial statements, the annual financial statements are audited by the Auditor-General (AG). The AG's report is included in the annual reports, which are accessible to the public. The annual reports are submitted to the Executive Authority, after which the report should be tabled in Parliament within five months after the end of each financial year.

3. Transparency in Budget Processes

Transparency means that all the country's people and stakeholders can access information on how much has been allocated to different types of spending, what revenues are collected, and how international donor assistance and other public funds are used.[5] Transparency is an important step towards holding governments accountable for how they use public funds.[6] Good governance dictates that government operations and decisions should be made openly, and with the active participation of the people influenced by them. Transparent governments account openly to citizens about the achievement of goals and usage of public funds to achieve such goals. Restricting access to information hinders the ability of the public, journalists, academics and civil society to hold officials accountable and creates opportunities for government to hinder unpopular, wasteful and corrupt spending. Lack of information also hinders the ability of other government bodies such Supreme Audit Institutions to do their jobs effectively.

In South Africa, the principle of transparency in public spending is embodied in the country's Constitution. The country's Constitution is founded on the values of accountability, responsiveness and transparency.[7] Section 195 (g) of the Constitution requires that transparency must be fostered in public administration by providing the public with timely, accessible and accurate information. Legislation has been enacted to ensure that transparency is the nerve centre of the South African government. Budget reform measures have brought vats improvement in the budget information available for public scrutiny. In terms of the study conducted by the International Budget Partnership, South Africa is among the most transparent countries in the world. The most recent legislative reforms, such as FMPA that require Parliament to be more transparent and accountable on its budget further strengthen the country's transparency status. The FMPA requires that a number of plans be developed and made public for public scrutiny on how Parliament intends utilising public funds The Act requires Parliament to prepare strategic plans, annual performance plan and annual budgets. These plans include detailed and important information that clearly spells out the programmes and direction of Parliament and its budget priorities. They sufficiently provide the public, civil society and other government bodies with useful information for the thorough scrutiny of Parliament's actions and budgets.

In practically implementing the principle of accountability, the Act requires that a number of reports be produced by Parliament to account on the expenditure of its budget. These include monthly financial statements, quarterly performance reports, mid-year budget, performance assessment and annual reports. Strict guidelines and close monitoring of both financial management and institutional programme performance are provided in the Act. Both quarterly performance reports, mid-year performance assessment and annual reports afford authorities an opportunity to evaluate institutional performance and provide remedial action

[5] Marshall Hoffman & Delaine McCullough

[6] Ibid

[7] The Constitution Act (1996)

where necessary. The availability of this information to the public further subjects Parliament to public scrutiny, whereby the public can assess whether it has delivered on its objectives as outlined in its performance plans. As stipulated in section 55 of the Act *"an annual report promotes accountability for decisions made during the year, and it must be based on the annual performance plan".*[8] As such, the annual report contains an assessment of performance of Parliament against the objectives and outcomes identified in the annual performance plan.

The Constitution not only dictates that government institutions provide the public with information, but also requires that such information should be accurate and credible. It also guarantees the independence of the Auditor-General (AG). It is within this Constitutional spirit that annual financial statements of Parliament are subject to be audited by the AG. The AG provides its audit opinion on the accuracy and credibility of financial statements, and his report is incorporated into the annual report which is accessible to the public in terms of Section 60 of the Act.

4. Difference Between the Public Finance Management Act (PFMA) and Financial Management of Parliament Act (FMPA)

Section 216 of the Constitution requires that national legislation must establish a national treasury and prescribe measures to ensure both transparency and expenditure control in each sphere of government. National Treasury is further mandated to enforce compliance of the spheres of government with the prescribed measures. In line with this constitutional provision, the Public Finance Management was enacted in 1999 to establish the National Treasury as well as to regulate financial management in the public sector. This Act seeks to ensure good governance in the public sector by providing legislative guidelines that enforce principles of accountability, good financial management as well as principles that counter corruption and waste in the use of public funds.

In line with the separation of powers, Parliament identified a need to establish its own financial management arrangements rather than be accountable to National Treasury. The FMPA was enacted in 2009 to regulate the budget process and manage the Parliamentary budget. This Act empowers Presiding Officers to determine their own process for submitting Parliament's budget. The Act requires that Parliament consults with the Minister of Finance during this process. In contrast to government departments, Parliament is not required to consult the Minister when shifting funds from one programme to the other. Parliament also has powers to manage self-regulated revenue and does not surrender unspent funds to National Treasury.

The difference between the PFMA and the FMPA is that while the PFMA regulates government departments and institutions, the FMPA regulates Parliamentary Budget. The

[8] Financial Management of Parliament Act (2009)

powers to coordinate and monitor funds allocated to government departments and public institutions rest with National Treasury, while the Executive Authority (Presiding Officers) are responsible for monitoring of the Parliamentary budget. The similarity between these two pieces of legislation is that both of these legislative instruments empower Parliament to oversee budgets and open public transactions for public scrutiny.

5. Oversight structure of Parliamentary Budget and Financial Management Processes

In moving towards good governance, the Act establishes a number of bodies and structures that assist Parliament in the effective and efficient implementation of budgets. These are assigned different responsibilities ranging from oversight to provision of advice to the Accounting Officer. These include Oversight Mechanism, Audit Committee and Internal Audit Unit among others. The Auditor-General also plays an important role in ensuring that good financial management practices are in place.

Oversight Mechanism

Section 55(2)(b)(ii) of the Constitution requires the National Assembly to provide for mechanisms to maintain oversight of any organ of State.[9] Basic values and principles governing public administration requires accountability. In line with these constitutional requirements, the FMPA establishes an oversight mechanism of Parliament. Chief among the responsibilities of this oversight mechanism is to maintain oversight of the financial management of Parliament. Among other things, it considers the annual reports of Parliament. The Act requires the composition of the oversight mechanism to be in accordance with the Joint Rules of Parliament. This simply means that the oversight mechanism is composed of Members of Parliament from both Houses. However, the membership of the Executive Authority, the Deputy Speaker of the National Assembly and the permanent Deputy Chairperson of the National Council of Provinces to the oversight mechanism is not permissible. They may only participate in the deliberations at the request of the oversight mechanism.

The oversight mechanism assumes similar responsibilities that the Committees on Appropriations and Standing Committee on Public Accounts (SCOPA) has in overseeing the budgets of the Executive. It plays an important role during the in-year budget monitoring and considers annual reports of Parliament. Section 54 of the Act requires the Executive Authority to table monthly, quarterly and mid-year reports in Parliament within the prescribed period, after which they are referred to the Oversight Mechanism. These reports serve as early warning systems for the oversight mechanism to detect the challenges in parliamentary spending and implementation of its programmes. Section 60 further requires annual reports to be referred to the oversight mechanism for consideration. These reports include both

[9] Constitution Act (1996)

programme and financial performance. This reporting phase facilitates for the annual assessment of Parliament's performance in relation to its annual performance and budget plans. It provides the oversight mechanism with an opportunity to holistically evaluate the use of funds and follow up on the spending deficiencies raised by the AG. The Oversight mechanism has the powers of parliamentary committees and is empowered to call the Accounting Officer or any other official of Parliament to appear before it.

Other countries that have established the oversight bodies of Parliament include Canada, New Zealand, United Kingdom and Malawi. In Canada, the Board of Internal Economy was established by the Parliament of Canada Act of 1985, the Administration of the House of Commons is established through the House of Commons Administration Act of 1978 while in both New Zealand and Malawi the Parliamentary Service Commission is established through an Act of Parliament. The difference between the South African Parliament's oversight mechanisms and the above mentioned countries is that:

- The oversight mechanism of the South African Parliament comprises of Members from both House while it appears that oversight mechanisms are comprised of Members from one House in other countries.
- The membership of Presiding Officers to the oversight mechanism is denied in the South African Parliament while all oversight bodies of Parliament are chaired by the Speaker of Parliament in these countries.

Audit Committee

The Audit Committee is an integral element of public accountability and good governance. It plays a key role with respect to the integrity of the entity's financial information, its system of internal controls, and the legal and ethical conduct of management and employees. An audit committee's responsibility will vary depending upon the entity's complexity, size, and requirements. Typical audit committee responsibilities include approving the overall audit scope, recommending the appointment of the external auditor, overseeing the entity's financial statement and internal controls, helping to ensure that the audit is conducted in a cost-effective manner, and risk management oversight. An audit committee must have three important qualities in order to fulfil its duties, namely independence, communication, and accountability. Audit Committee are generally tasked by the boards or equivalent bodies to conduct internal oversight of the institutions systems, policies and processes.

In line with corporate governance framework, section 47 of the FMPA establishes an Audit Committee. In maintaining its independence, this Committee is appointed by the Executive Authority with the majority of its members coming from external bodies. As a general practice, most Audit Committees are chaired by external persons to increase the levels of independence. The Act is however not explicit in this regard and no provision of such nature is enacted. It however, requires members of the Committee to declare any financial interest on any matter before the Committee and to withdraw from the proceedings if necessary. The Audit Committee has the following responsibility in ensuring good governance practices within Parliament:

- Establishment of an audit charter: this sets up its operating procedures, guides audit approach and set rules for relationship with Internal Audit Unit and the Accounting Officer.
- Carry investigations into Parliament's financial and risk management.
- Report on effectiveness of internal control, quality of financial management and quality of financial statements.

The Audit Committee is an important tire in the financial management of Parliament in that, it raises early warning on the effectiveness and adequacy of financial controls. This is done through the assistance of the Internal Audit Unit. If financial controls are proven to be inadequate or ineffective, authorities within Parliament are alerted on time to strengthen such controls in order to avoid any exploitation that might result in the loss of public funds.

Internal Audit Unit

Internal Auditors are guided by both the Standards for the Professional Practice of Internal Auditors and the country's legislation in conducting their work. The general purpose of internal auditing is to assist in improving controls and providing feedback on business operations with the objective of assisting members of the organisation to effectively discharge their responsibilities. According to the Standards for the Professional Practice of Internal Auditing, internal auditors must remain as independent and objective as possible to perform their job correctly. The duties performed by an internal auditor include evaluating the systems of internal control and assessing the reliability of financial information.

Section 7 (c) of the FMPA requires the Accounting Officer to ensure that Parliament maintains effective, efficient and transparent systems of financial management, risk management, internal control and internal audit. In further recognising the value of internal auditing for improved governance, Section 50 of the Act empowers the Accounting Officer to establish Parliament's Internal Audit Unit. Among its functions, the Unit must prepare for the approval of the Audit Committee:

- Operating procedure to guide its relationship with the administration of Parliament.
- A three-year risk based audit plan
- Internal Audit programme for each year.

The reports of the Internal Audit Unit are important as they highlight the weaknesses in internal controls, indicators of financial mismanagement and non-compliance with legislation, regulations and policies. These proactively assist management to take corrective measures in improving financial management and the credibility of financial information.

Auditor-General

The Auditor-General (AG) is the supreme audit institution of the Country. The AG draws its mandate from Section 188 of the Constitution and the Public Audit Act of 2004. The main mandate of the AG is to audit and report on the accounts, financial statements and financial management of government institutions and agencies. These include both national and provincial legislatures. In line with this Constitutional provision, section 58 of the Act provides for the auditing of the annual financial statements by the AG. The AG's independence is guaranteed by the Constitution, and it provides an independent opinion of the annual financial statements of Parliament. The AG's report is incorporated into the annual reports and tabled to Parliament for consideration.

The AG's report is central in overseeing the financial management of Parliament. In the same way in which AG's reports assist SCOPA in conducting oversight over public funds, the AG's report on financial statements of Parliament is refereed to the oversight mechanism to follow up on any audit queries. It assists in providing substantive evidence on the management of parliamentary funds.

6. Conclusion

The Parliamentary budget process embraces all the constitutional values and practice that promote good governance. It is established in a core legislative framework that provides clear guidelines during the planning, implementation and reporting of budgets. The principles of transparency and accountability are embodied in this process and necessary structures are put in place to oversee the budget. The alignment of programme performance to budget performance and proper reporting frameworks allow for thorough scrutiny of budgets. Moreover, the clear separation of powers between the Executive and the Legislature facilitates clear accountability lines and oversight over the Parliamentary budget.

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