

PUBLIC AUDIT EXCESS FEE BILL [B 7-2019]

*Briefing of Standing Committee on Appropriations,
National Assembly*

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national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

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Purpose of Bill

- To provide that audit fees in excess of 1% of current & capital expenditure of qualifying auditees audited by AG is a **direct charge** against National Revenue Fund (NRF)
- Qualifying auditees exclude national and provincial departments and government components
- Provision for a direct charge may only be proposed through a money Bill introduced by Minister of Finance

Current position

- AG is funded through fees charged to auditees
- Audit fees are used for AG's expenses, financing fixed assets and generate a 1-4% surplus for working capital & general reserve requirements
- Currently Public Audit Act (section 23(6)) provides that audit fees exceeding 1% of current & capital expenditure of an auditee, are funded from the vote of National Treasury (NT)
 - ✓ if auditee is not a national/provincial department; and
 - ✓ if NT is of view that auditee has financial difficulty to pay excess

Problem statement (1)

- Unpaid audit fees deprive AG of cash flow to support execution of its constitutional mandate
- Substantial amount of AG's revenue (10% of auditees) falls in so called financially distressed category
 - Fees are uncollectable and, if not paid from fiscus, puts AG's financial viability at risk

Problem statement (2)

- Excess audit fee to be paid from NT's vote much higher than appropriated amount and resulted in shortfalls

Financial year	Amount claimed by NT	Amount appropriated by NT	Additional funds available by NT	Shortfall
	(R' million)	(R' million)	(R' million)	(R' million)
2014/15	127.02	41.86	20.00	65.17
2015/16	154.86	44.08	-	110.79
2016/17	169.33	46.28	35.00	88.05
2017/18	132.67	46.28	150.00 to settle debt	86.39
2018/19	139.29	47.74		91.55

Problem statement (3)

- NT's vote must fund NT's own operations and also other competing priorities
- Unpredictability of total amount of excess audit fee makes it difficult to estimate required funding accurately
- AG's reliance on funding from NT's vote and continued shortfall puts AG's financial viability at risk and may result in threatening its constitutional independence

Public Audit Amendment Act, 2018 (1)

- In 2018, during deliberations of Standing Committee on the Auditor-General (NA) on Public Audit Amendment Bill, AG and NT made a joint proposal that excess audit fee should become a direct charge against NRF
- AG and NT also made related proposals, e.g.
 - ✓ determination of audit fees generally
 - ✓ setting criteria to determine whether qualifying auditees have financial difficulty to pay excess audit fee

Public Audit Amendment Act, 2018 (2)

- Public Audit Amendment Act, 2018 (2018 Act) was gazetted 20 November 2018 and most of its provisions are envisaged to take effect on 1 April 2019
- Public Audit Act, as to be amended by 2018 Act requires that AG annually consults NT on
 - ✓ frequency, nature and scope of audits to facilitate determination of audit fees (section 13(1) & (1A))
 - ✓ basis of calculation of audit fees (section 23(1))

Public Audit Amendment Act, 2018 (3)

- Public Audit Act, as to be amended by 2018 Act, requires that AG and NT agree on
 - ✓ annual date of mentioned consultation
 - ✓ criteria to apply to determine whether an auditee has financial difficulty to pay excess audit fee
 - ✓ process to determine estimate of funds required annually as a direct charge for excess audit fees
- If deadlock arises, Standing Committee on the Auditor-General must make determination (section 23(7) of Public Audit Act, as to be amended)

Public Audit Amendment Act, 2018 (4)

Section 23(6) of Public Audit Act, as to be amended by 2018 Act, provides as follows:

“(6) Subject to subsection (7), if—

(a) the audit fee of an auditee, other than a department as defined in section 1 of the Public Finance Management Act, exceeds one percent of the total current and capital expenditure of such auditee for the relevant financial year; and

(b) the National Treasury—

(i) was consulted, as required by subsection (1); and

(ii) is of the opinion that the auditee has financial difficulty to pay such excess,

such excess is to be defrayed in terms of the Act that authorises the defrayment of the excess as a direct charge against the National Revenue Fund.” (our emphasis)

Public Audit Amendment Act, 2018 (5)

Amendments by 2018 Act to section 23 of Public Audit Act will only take effect when the Act providing for excess audit fees to be a direct charge against the NRF takes effect

Why a direct charge (1)?

- Direct charge instead of appropriation on NT's vote for excess audit fees will mean revenue in NRF contributes directly to qualifying auditees unable to pay excess audit fee
- Direct charge will-
 - ✓ limit disputes between AG and NT
 - ✓ create certainty for AG on expected revenue which is essential for financial independence

Why a direct charge (2)?

- Transparency on direct charge – included in Estimates of National Expenditure when budget is tabled in Parliament; also reported in AG's annual financial statements and annual report
- Abuse by qualifying auditees is curtailed by
 - ✓ NT still first determining whether auditee is unable pay
 - ✓ strengthening process on scope, nature & frequency of audits and determination of basis of calculation of audit

fees

End

Re a leboga/Ro livhuwa/Dankie/Thank you