

PUBLIC FINANCE MANAGEMENT ACT, 1999
REGULATIONS FOR ACCOUNTING STANDARDS BOARD

The Minister of Finance has in terms of section 91 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), made the regulations set out in the Schedule.

SCHEDULE

Definitions

1. In these regulations, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and unless the context otherwise indicates –

“**Board**” means the Accounting Standards Board established in terms of section 87 of the Act;

“**Minister**” means the Minister of Finance;

“**the Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Members of Board

Qualifications of members

2. A member of the Board must –

- (a) be a fit and proper person to hold office as a member;
- (b) have a holistic knowledge and understanding of financial reporting;
- (c) have the ability to act in the public interest; and
- (d) demonstrate, inter alia, some of the following skills:
 - (i) the ability to contribute to the development of best accounting practices, both locally and internationally;
 - (ii) expertise in the field of accounting standards; and
 - (iii) relevant expertise in public sector finance.

Term of office

3. (1) All appointments after the enactment of these regulations must be for a term of three years.

(2) A retiring member may be re-appointed for one additional term.

(3) One third of the members determined by lot retire by rotation annually after the commencement of the second term.

Remuneration, allowances, and benefits of members

4. (1) The Minister, after consulting the Auditor-General, may determine the remuneration, allowances and other benefits of members of the Board.

(2) The remuneration, allowances and any other monetary benefits of members of the Board must be paid from the funds of the Board.

Termination of membership

5. (1) A person appointed to the Board ceases to be a member of the Board when that person –

- (a) is no longer eligible in terms of regulation 2 to be a member;
- (b) resigns; or
- (c) is removed from office in terms of regulation 7.

(2) A member may resign by giving at least three months written notice to the Minister, but the Minister may accept a shorter notice period in a specific case.

Conduct of members

6. (1) A member of the Board –

- (a) must perform the functions of office in good faith and without favour or prejudice;
- (b) must disclose to the Board any personal or private business interest that that member or any spouse, partner or close family member may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered unless the Board decides that the interest of that member in the matter is trivial or irrelevant;
- (c) may not use the position, privileges, or knowledge of a member for private gain or to improperly benefit another person; and
- (d) may not act in any other way that compromises the credibility, impartiality, independence or integrity of the Board.

(2) A member of the Board who contravenes or fails to comply with subregulation (1) is guilty of misconduct.

Removal from office

7. The Minister, after consulting the Auditor-General, may remove a member of the Board from office, but only on the ground of –

- (a) misconduct;
- (b) incapacity;
- (c) incompetence; or
- (d) absence from three consecutive meetings of the Board without the prior permission of the Board.

Filling of vacancies

8. When a vacancy has occurred, the Minister, after consulting the Auditor-General, must appoint a person to fill that vacancy. That person holds office for the remaining part of the vacating member's term.

Chairperson and Deputy Chairperson

9. (1) Whenever necessary the Board must elect from its members a person to be the Chairperson and another person to be the Deputy Chairperson of the Board.

(2) A person elected to be the Chairperson or the Deputy Chairperson holds office for three years or until that person's term as a member expires, whichever occurs first.

(3) The Deputy Chairperson acts as chairperson when –

- (a) the Chairperson is absent or unable to perform the functions of chairperson; or
- (b) the office of chairperson is vacant.

(4) The Deputy Chairperson does not automatically succeed as Chairperson if the office of chairperson becomes vacant.

(5) The Chairperson must be available for the work of the Board in addition to the attendance of Board meetings.

Operating procedures of the Board

Meetings of the Board

10. (1) The Chairperson of the Board decides when and where the Board meets, but a majority of the members may request the Chairperson in writing to convene a Board meeting at a time and place set out in the request.

(2) The Chairperson or Deputy Chairperson presides at meetings of the Board, but if both are absent from a meeting, the members present must elect another member to preside at the meeting.

(3) Meetings of the Board are open to the public, but the Board may close its meetings when deliberating confidential matters.

Quorums and decisions

11. (1) A majority of all the members of the Board constitutes a quorum for a meeting of the Board.

(2) Where the number of members present is insufficient to constitute a quorum for a meeting of the Board, the Chairperson may determine that a further meeting be held at a specified time and place. The members then present constitute a quorum for such meeting, provided that a least five members are present.

(3) The Board must decide the following matters by the votes of two thirds of all the members present at a Board meeting:

- (a) the setting of a standard in terms of section 89 (1) (a) of the Act;
- (b) any interpretation of such a standard; and
- (c) the issuing of a directive or guideline in terms of section 89 (1) (b) of the Act.

(4) Any other matter before the Board is decided by the votes of the majority of the members present at the meeting, provided that –

- (a) the members present constitute a quorum for a meeting of the Board; and
- (b) the member presiding at the meeting must exercise a casting vote in addition to that member's vote as a member, if there is an equality of votes.

Procedure for conduct of meetings

- 12.** The Board –
- (a) may determine rules of procedure for the conduct of its business at meetings;
 - (b) must keep minutes of its proceedings and decisions; and
 - (c) must make such minutes available to an interested person on request.

Committees

- 13.** (1) The Board may –
- (a) appoint one or more committees to assist it in the performance of any of its functions or the exercise of any of its powers; and
 - (b) dissolve a committee at any time.
- (2) When appointing members to a committee the Board is not restricted to Board members.
- (3) The Board –
- (a) must determine the functions of a committee;
 - (b) must appoint a Chairperson and other members of a committee;
 - (c) may remove a member of a committee at any time;
 - (d) may determine a committee's operating procedures; and
 - (e) may remunerate members of committees within a framework approved by the Minister.

Delegation of powers and duties

- 14.** (1) When necessary for the proper performance of its functions, the Board may delegate any of its powers or duties to –
- (a) the Chairperson or any other Board member;
 - (b) a committee referred to in regulation **13**; or
 - (c) a staff member of the Board.
- (2) A delegation in terms of subregulation (1) –
- (a) is subject to any limitations, conditions or directions the Board may impose;
 - (b) must be in writing; and
 - (c) does not divest the Board of the responsibility concerning the exercise of the power or the performance of the duty.

(3) The Board may confirm, vary or revoke any decision taken in consequence of a delegation in terms of subregulation (1), subject to any rights that may have accrued to a person as a result of the decision.

Administration of Board

Employment of staff

- 15.** The Board may –
- (a) determine a staff establishment necessary for the work of the Board; and
 - (b) appoint persons in posts on the staff establishment on terms and conditions of employment determined by the Board within a framework approved by the Minister.

Funding

- 16.** The funds of the Board consists of –
- (a) income derived by it from the performance of its functions;
 - (b) money appropriated for its purposes by Parliament; and
 - (c) grants received from organs of state.

Liability of Board

17. No person, including the Board, is liable for anything done or omitted in good faith, when performing a function or exercising a power in terms of Chapter 11 of the Act or these regulations.