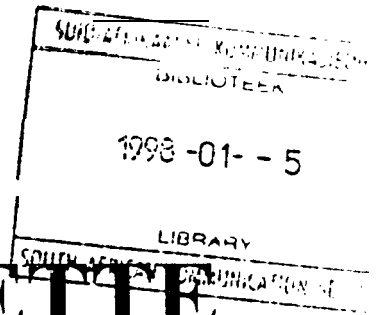




REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE



STAATSKOERANT

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OFFICE OF THE PRESIDENT

No. 1652. 17 December 1997

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 97 of 1997: Intergovernmental Fiscal Relations Act, 1997.

KANTOOR VAN DIE PRESIDENT

No. 1652. 17 Desember 1997

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 97 van 1997: Wet op Interregerings- Fiskale Betrekkinge, 1997.

# ACT

**To promote co-operation between the national, provincial and local spheres of government on fiscal, budgetary and financial matters; to prescribe a process for the determination of an equitable sharing and allocation of revenue raised nationally; and to provide for matters in connection therewith.**

*(English text signed by the President.)  
(Assented to 26 November 1997.)*

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

## Definitions

1. In this Act, unless the context otherwise indicates—
- “Budget **Council**” means the Budget Council established by section 2; 5
  - “Budget **Forum**” means the Local Government Budget Forum established by section 5;
  - “Commission” means the Financial and Fiscal Commission established by section 220 of the Constitution;
  - “Division of Revenue Bill” means the Bill containing the legislation envisaged in 10 section 214( 1) of the Constitution;
  - “financial year” means a financial year as determined for state departments;
  - “**MEC** for finance” means the member of the Executive Council of a province to whom the responsibility for finance in the province has been assigned;
  - “**Minister**” means the Minister of Finance. 15

## PART 1

### BUDGET COUNCIL

#### Establishment

2. (1) There is a Budget Council consisting of— 20
- (a) the Minister; and
  - (b) the MEC for finance of each province.
- (2) The Minister is the Chairperson of the Budget Council.

#### Functions

3. The Budget Council is a body in which the national government and the provincial governments consult on— 25
- (u) any fiscal, budgetary or financial matter affecting the provincial sphere of government;
  - (b) any proposed legislation or policy which has a financial implication for the provinces, or for any specific province or provinces;
  - (c) any matter concerning the financial management, or the monitoring of the 30 finances, of the provinces, or of any specific province or provinces; or
  - (d) any other matter which the Minister has referred to the Council.

**Meetings**

- 4.(1) The Minister convenes the meetings of the Budget Council, which must meet at least twice in each financial year.
- (2) Meetings of the Budget Council may be attended by—
- (a) the Chairperson of the Commission or a delegation of the Commission designated by the Chairperson of the Commission; and
  - (b) any other persons by invitation.

**PART 2****LOCAL GOVERNMENT BUDGET FORUM****Establishment**

5. (1) There is a Local Government Budget Forum consisting of—
- (a) the Minister;
  - (b) the MEC for finance of each province;
  - (c) five representatives nominated by the national organisation recognised in terms of the Organised Local Government Act, 1997; and
  - (d) one representative nominated by each provincial organisation recognised in terms of that Act.
- (2) The Minister is the Chairperson of the Budget Forum.

**Functions**

6. The Budget Forum is a body in which the national government, the provincial governments and organised local government consult on—
- (a) any fiscal, budgetary or financial matter affecting the local sphere of government;
  - (b) any proposed legislation or policy which has a financial implication for local government;
  - (c) any matter concerning the financial management, or the monitoring of the finances, of local government; or
  - (d) any other matter which the Minister has referred to the Forum.

**Meetings**

7. (1) The Minister convenes the meetings of the Budget Forum, which must meet at least once in each financial year.
- (2) Meetings of the Budget Forum may be attended by—
- (a) the Chairperson of the Commission or a delegation of the Commission designated by the Chairperson of the Commission; and
  - (b) any other persons by invitation.

**PART 3****PROCESS FOR REVENUE-SHARING AMONG THE SPHERES OF GOVERNMENT****Revenue-sharing and allocation of money in terms of section 214 of Constitution**

8. The process for the sharing of revenue raised nationally among the national, provincial and local spheres of government in terms of section 214(1)(a), the division of the provincial share among the provinces in terms of section 214(1)(b), and any allocation of money to the provincial governments, local government and municipalities in terms of section 214(1)(c) of the Constitution, must be effected in accordance with this Part.

**Commission's recommendations**

9. (1) At least ten months (or a later date agreed to between the Minister and the Commission) before the start of each financial year, the Commission must submit to both Houses of Parliament and the provincial legislatures. for tabling in the Houses and

the legislatures, and also to the Minister, recommendations for that financial year regarding—

- (a) an equitable division of revenue raised nationally, among the national, provincial and local spheres of government;
- (b) the determination of each province's equitable share in the provincial share of that revenue; and
- (c) any other allocations to provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations should be made.

(2) If the Minister and the Commission agree on a later date for the submission of the Commission's recommendations in terms of subsection (1), that date may not be later than 60 days before the introduction of the Division of Revenue Bill in the National Assembly for the relevant financial year.

(3) When making its recommendations the Commission must take into account the matters listed in section 214(2)(a) to (j) of the Constitution. 15

### Division of Revenue Bill

**10. (1)** Each year when the Annual Budget is introduced, the Minister must introduce in the National Assembly a Division of Revenue Bill for the financial year to which that Budget relates.

(2) The Division of Revenue Bill must specify— 20

- (a) the share of each sphere of government of the revenue raised nationally for the relevant financial year;
- (b) each province's share of the provincial share of that revenue; and
- (c) any other allocations to the provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations are or must be made. 25

(3) After receiving any recommendations of the Commission in terms of section 9(1), but before the Division of Revenue Bill is introduced in the National Assembly, the Minister must consult—

- (a) the provincial governments, either in the Budget Council or in another way;
- (b) organised local government, either in the Budget Forum or in another way; and
- (c) the Commission.

(4) The Commission must be consulted in terms of subsection (3) at least 14 days before the Division of Revenue Bill is introduced. 35

(5) When the Division of Revenue Bill is introduced, it must be accompanied by a memorandum explaining—

- (a) how the Bill takes account of each of the matters listed in section 214(2)(u) to (j) of the Constitution;
- (b) the extent to which account was taken of any recommendations of the Commission submitted to the Minister in terms of section 9 or as a result of consultations with the Commission in terms of subsection (3) of this section; and
- (c) any assumptions and formulae used in arriving at the respective shares mentioned in subsection (2)(a) and (b). 40 45

### Short title and commencement

**11.** This Act is called the Intergovernmental Fiscal Relations Bill, 1997, and takes effect on 1 January 1998.