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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GOVERNMENT NOTICE

NATIONAL TREASURY

No. 305

5 April 2007

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003: EXEMPTION FROM CERTAIN SPECIFIC PROVISIONS OF THE ACT TO FACILITATE ELECTRICITY INDUSTRY RESTRUCTURING

I, Trevor A Manuel, Minister of Finance, acting in terms of section 177 (3) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), with the concurrence of the Minister for Provincial and Local Government, hereby exempt all municipalities and municipal entities from or in respect of the provisions of sections 14 and 90 of the Local Government: Municipal Finance Management Act, subject to the following conditions:

- (a) The exemption relates to the transfer of ownership or otherwise disposal of capital assets to regional electricity distributors or public entities.
- (b) This relates to capital assets (moveable and immovable) owned by municipalities or municipal entities on the date of this Notice, for the provision of electricity reticulation and other electricity services.
- (c) Municipalities and municipal entities must prior to entering into a service delivery agreement or any other agreement with regional electricity distributors or public entities undertake a detailed due diligence and ring-fencing of their electricity reticulation and other electricity services, identify all capital assets to be transferred to regional electricity distributors or public entities and record these assets in an asset register.
- (d) Any asset to be transferred must be subject to a method of valuation that is transparent and auditable and included in the agreement referred to in paragraph (c).
- (e) Any loan or other liability associated with an asset to be transferred must be transferred with that asset.
- (f) The asset register referred to in paragraph (c) must –
 - (i) list, describe and reflect the value of each asset grouped according to category as agreed between the municipality or parent municipality and regional electricity distributors or public entities;
 - (ii) provide details of sources of funding of assets and encumbrances on assets to be transferred or disposed of;
 - (iii) be approved by a council resolution; and
 - (iv) be included in the agreement referred to in paragraph (c), to be entered into by the municipality and regional electricity distributors or public entities for the provision of electricity

reticulation and other electricity services by the latter to the municipality.

- (g) The agreement referred to in paragraph (c), must provide for upgrading, maintenance and insurance of the affected assets and other suitable risk mitigating factors to provide appropriate safeguards against loss.
- (h) The agreement referred to in paragraph (c), must provide that upon termination of the agreement, or upon deregistration or liquidation of any regional electricity distributor or public entity, all assets (including any replacement assets and inventory required for the ongoing maintenance of those assets) be transferred to the respective municipalities.

This Notice does not exempt –

- (i) municipalities or municipal entities from compliance with sections 14 and 90 in respect of –
 - (i) the transfer of ownership or disposal of any capital assets other than specified in this Notice;
 - (ii) capital assets owned by municipalities or municipal entities for the provision of electricity reticulation and other electricity services transferred to regional electricity distributors or public entities other than in accordance with the conditions referred to above;
 - (iii) capital assets owned by municipalities or municipal entities for the provision of electricity reticulation and other electricity services not transferred to regional electricity distributors or public entities.
- (j) municipalities or municipal entities or any other parties participating with regional electricity distributors or public entities from compliance with other provisions of the Local Government: Municipal Finance Management Act or other legislation that relates to the establishment of regional electricity distributors or public entities.

The exemption provided for in this Notice lapses on the date that the framework referred to in sections 14 (6) and 90 (6) of the Local Government: Municipal Finance Management Act is prescribed.

Signed at Cape Town on this 23rd day of March 2007



TREVOR A MANUEL, MP
MINISTER OF FINANCE