



Bulk resources for municipal services

The Municipal Finance Management Act (MFMA) promotes co-operative approaches to fiscal and financial management across government. In the spirit of co-operative governance, the MFMA requires organs of state who supply bulk resources to consult on pricing policies that impact on municipal services.

Section 42 of the MFMA requires extensive consultation before an organ of state can increase the price of a bulk resource supplied to a municipality or municipal entity. This forms part of government's effort to ensure consistent policy implementation and achievement of macro economic objectives. This process is comprehensive and must be completed timely and contain motivations to be tabled in Parliament or the relevant provincial legislature. Careful planning is required to meet the obligations of the MFMA before the pricing amendments can take effect.

Background

Government generally and municipalities specifically are a major provider of essential services to communities. The ongoing financial sustainability of these institutions is important to meet national, provincial and local objectives. Significant reforms contained in the MFMA require municipalities to be more transparent demanding minimum levels of reporting and accountability. All municipal budgets must now be tabled in council no later than 31 March and adopted before 1 July, providing improved certainty in the process. As the purchase of bulk services makes up a significant component of municipal expenditure (roughly 25 per cent) and will impact directly on the tariff policies adopted by council, it is imperative to coordinate and finalise the pricing from bulk resource providers in a timely manner. Municipalities and bulk service providers are also encouraged to take into account government's broad economic objectives and adhere to the inflation targets when concluding their bulk and retail tariffs.

The MFMA provides two significant features in relation to the provision of electricity, water and other bulk resources to municipalities and municipal entities.

Firstly, if an organ of state intends to increase the price of such resource it must undertake a comprehensive consultation process to be completed on or before 15 March in any year. Failure to complete the consultation process by 15 March in any year will delay the price increase by twelve months until 1 July the following year (section 42). This process of consultation is outlined in detail below.

Secondly and to complement the consultation process, the National Treasury is required to monitor the pricing structures and payments made by municipalities and municipal entities to organs of state for the supply of bulk resources. To do this, organs of state are required to submit monthly statements to the National Treasury setting out payments received, arrears and any action taken to recover arrears from municipalities and municipal entities (section 41). This monitoring requirement is detailed below.

Price increases of bulk resources for provision of municipal services (section 42)

Section 42 of the MFMA, effective from 1 April 2005, sets out a comprehensive consultation process to be followed by organs of state before the pricing of bulk resources supplied to municipalities and municipal entities can be increased. It is incumbent on the organs of state to follow this procedure as failure to do so will delay or possibly invalidate any price increases. This process is in addition to any other regulatory processes prescribed, i.e. the National Electricity Regulator (NER) for electricity.

Organs of state must complete consultation on price increases no later than **15 March** of any year if the increase is to take effect from 1 July of the same year. If the process is not completed by 15 March the price increase will be delayed for 12 months. By working back from 15 March, the various consultation processes can be planned to ensure the process is finalised in good time. The following table provides a guide to assist with the consultation process.

Action	Date
1 The organ of state (bulk provider) should consult with all municipalities and municipal entities within their supply area on proposed pricing increases. This would ideally take the form of a meeting or workshop at which relevant motivations supporting the increase are tabled and explained, allowing opportunities for questions and feedback. Municipalities at this stage to consider and plan ahead for compliance with other regulatory processes prescribed for setting municipal tariffs, i.e. NER for electricity.	Oct and Nov
2 A request must be lodged with the National Treasury and organised local government (SALGA) seeking written comments on the proposed pricing increase. This request should be accompanied by sufficient information to enable constructive comments, such as that information required in step 3 below and feedback from consultation with municipalities and municipal entities from step 1 above.	No later than 1 Dec
3 National Treasury and SALGA provide written comments on the proposed pricing increase.	No later than 25 Jan
4 No sooner than 40 days after lodging the request with National Treasury and SALGA the organ of state must lodge a “submission” on the proposed pricing increase to: <ul style="list-style-type: none"> • its executive authority within the meaning of the PFMA; and • any regulatory agency for approval, if national legislation requires such approval e.g. NER for electricity Such submission must be accompanied by: <ul style="list-style-type: none"> • a motivation of the reasons for the proposed amendment; • an explanation of how the amendment takes account of- <ul style="list-style-type: none"> - government's inflation targets and other macro economic policy objectives; - steps taken by the organ of state to improve its competitiveness or efficiency in order to reduce costs; - any objectives or targets as outlined in any corporate or other governance plan applicable to that organ of state; • any written comments received from the National Treasury, organised local government or any municipalities; and • explanation of how such comments have been taken into account. 	25 Jan

Action	Date
5 The executive authority of the organ of state must table the pricing amendment and the documents referred to in 3 above in Parliament or the relevant provincial legislature, as may be appropriate.	15 Feb
6 Unless approved otherwise by the Minister, an amendment to a pricing structure which is tabled in Parliament or the relevant provincial legislature: <ul style="list-style-type: none"> on or before 15 March in any year, does not take effect for the affected municipalities or municipal entities before 1 July in that year; or after 15 March in any year, does not take effect for the affected municipalities or municipal entities before 1 July the next year. 	1 March
7 The organ of state (bulk provider) must notify in writing all municipalities and municipal entities of the price increase.	15 March
8 Municipalities to comply with other regulatory processes prescribed for setting municipal tariffs, i.e. NER for electricity.	As soon as possible after 15 March
9 Municipality to table draft budget before council.	No later than 31 March

Monthly reporting by organs of state

Section 41 of the MFMA requires the National Treasury to monitor the pricing structure of organs of state for the supply of electricity, water or any other bulk resources to municipalities and municipal entities and payments made for such bulk resources.

Each organ of state providing such bulk resources to a municipality must within 15 days after the end of each month furnish the National Treasury with a written statement setting out, for each municipality in that province or for each municipal entity providing municipal services on behalf of such municipalities:

- the amount to be paid by the municipality or municipal entity for such bulk resources for that month, and for the financial year up to the end of that month;
- the arrears owing and the age profile of such arrears; and
- any actions taken by that organ of state to recover arrears.

It will be desirable to automate the reporting requirement and to this end organs of state are invited to submit suggested electronic formats and fields for incorporation into an agreed format for submission. A suitable format will be available shortly.

Disputes between organs of state (section 44)

In cases of disputes arising between a municipality or municipal entity and organs of state, including bulk suppliers, this matter must be first referred to the sector department regulating the bulk supplier, e.g. matters related to electricity are to be referred to the Department of Mineral and Energy, matters concerning water and sanitation to the Department of Water Affairs and Forestry, etc.

If the National Treasury is not a party to the dispute, the parties must report the matter to the National Treasury and may request the National Treasury to mediate between the parties or to designate a person to mediate between them. If the National Treasury accedes to a request the National Treasury may determine the mediation process.

Please refer to *MFMA Circular No 21* on disputes between organs of state. More information is available on the National Treasury website (see below).

Conclusion

In the spirit of co-operative governance it is incumbent on organs of state to undertake a fair and comprehensive consultation programme. This should commence with discussions with municipalities and municipal entities around October/November of each year, to be followed by formal submissions to a range of statutory authorities prior to tabling in Parliament or the relevant provincial legislature. Failure to complete this process by 15 March of each year will delay the proposed increases for 12 months thus making it essential for organs of state to carefully plan the consultation process.

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