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Mr D Arends
Parliamentary Standing Committee on Appropriations
90 Plein Street
Cape Town
8001

BY E-MAIL:
D Arends, SCoA (daarends@parliament.gov.za)

Dear Sir

PARLIAMENTARY PUBLIC HEARINGS - COMMENTS ON THE 2022 APPROPRIATION BILL

The South African Institute of Chartered Accountants (SAICA) herewith presents its specific and general comments and submissions on the 2022 Appropriation Bill that was tabled together with the Budget Review released by Minister Godongwana on 23 February 2022.

We once again thank the Standing Committee on Appropriations (SCoA) for the ongoing opportunity to provide constructive comments in this regard. SAICA continues to believe that a collaborative approach is best suited in seeking solutions to complex challenges.

Yours sincerely

Pieter Faber
Executive: Tax

Dr. Sharon Smulders
Project Director: Tax Advocacy



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ACCOUNTING FOR IMPLEMENTATION

1. Minister Godongwana reaffirmed government's commitment to charting a course towards growth and fiscal sustainability by narrowing the budget deficit and stabilizing debt. He did this by laying out his plan (the Budget) of how this will be done.
2. The reason for this submission, is to provide public input into the content of the 2022 Appropriation Bill that was tabled with the Budget Speech so that the SCoA can fulfil its role. The mandate of the SCoA¹ is to consider and report on spending issues and amendments to, *inter alia*, the Appropriation Bill and any actual expenditure published by the National Treasury.
3. Parliament, and not National Treasury, is therefore ultimately accountable to ensure sufficient oversight that the budget and its appropriation is appropriate and will in fact achieve fiscal and macroeconomic policy.
4. The Standing Committees on Finance (SCoF) are accountable for oversight of the fiscal framework. The fiscal framework is a framework for a specific financial year that gives effect to the national executive's macro-economic policy and it includes amongst others ***estimates of all revenue***, budgetary and extra budgetary specified separately, expected to be raised during that financial year, ***estimates of expenditure*** and ***estimates of borrowing*** for that financial year.
5. All the elements of the fiscal framework are interlinked, however, in analysing the estimates and appropriations, one needs to consider what actually happened in previous years, as it talks to the **credibility of the budget** estimates and appropriations and whether **people are held accountable to ensure budgets are met and implemented as tabled**.
6. We set out below our specific and general comments relating to the 2022 Appropriations Bill.

SPECIFIC COMMENTS

VIP Protection for small groups of politicians

7. COSATU has over numerous years lamented the fact that the VIP protection cost is unconscionable in a society so unequal and underfunded like South Africa.
8. In 2021, Parliament approved a significant budget increase for the estimate of R1,7 billion that goes towards this unit. The current amounts allocated to this project is as follows:

¹ Section 8(2) of the Money Bills Amendment Procedure and Related Matters Act 9 of 2009.

Vote		Main Division	Current Payments			Transfers and Subsidies	Payments for Capital Assets	Payments for Financial Assets
			Compensation of Employees	Goods and Services	Interest and Rent on Land			
	5 Protection and Security Services <i>Provide protection and security services to all identified dignitaries and government interests.</i>	3 496 325	3 119 631	277 853		8 663	90 178	

9. Parliament would in the same budget cut the National Prosecuting Agency (NPA) budget by R400 million and only allocate R4,5 billion to it. The appropriation to the NPA for 2022/23 is as follows (R4.9 billion):

4 National Prosecuting Authority <i>Provide a coordinated prosecuting service that ensures that justice is delivered to victims of crime through general and specialised prosecutions. Remove profit from crime. Protect certain witnesses.</i> <i>Of which</i> <i>Departmental agencies and accounts</i> – Safety and Security Sector Education and Training Authority: Operations	4 910 265	4 154 154	647 782		21 970	86 359	
					11 611		

10. Parliament in effect approved a budget whereby the safety of a handful of politicians is funded at 38% of the budget of an organ of state that has to ensure justice for 60 million people.
11. This has occurred notwithstanding that we live in one of the most crime riddle countries in the world.
12. To add to this, the NPA (that has a broad mandate to prosecute serious crimes that impact on thousands of victims each year) has stated that it needs a further [R1.7 billion](#)² to prosecute state capture cases and to modernise the organisation.
13. This is, however, not just a matter of conscience anymore.
14. In November 2021, the global oversight body for anti-money laundering (AML), the Financial Action Task Force (FATF) did a review of South Africa's standards to address money laundering, financing of terrorism and counter financing of proliferation.
15. The FATF Plenary concluded that South Africa has solid legal framework but significant shortcomings, especially as to enforcing this framework³.
16. South Africa committed to review the short comings and address it with the FATAF giving South Africa 1 year till October 2022. Should South Africa fail to make interventions South Africa could be placed on the FATF "Grey list" at its February 2023 plenary.

² [NPA needs a further R1.7bn to lock up state capturers and to modernise the organisation | News24](#)

³

<https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-South-Africa.pdf>



17. The suggested interventions included to provide the SAPS Directorate for Priority Crimes Investigations with more staff, especially financial investigators and forensic accountants.
 18. This SAPS Directorate received R1.743 billion for employees in the 2021 Appropriation and R1.829 billion in 2022 or a 4,9% increase. This does not show any intent on behalf of the South African government to meet its commitment to FATF and puts the whole country at risk.
 19. The consequences of this happening as it did to Turkey on 21 November 2021 is real and catastrophic⁴.
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|---|
| <ol style="list-style-type: none">20. <u>Submission</u>: Is Parliament confident it is meeting its oversight role in the interest of the people by approving this estimate of expenditure and thus meeting the goals of our country?21. Should the VIP unit be allocated relatively more money than the NPA considering the number of individuals these units serve?22. Considering the critical and urgent role of the NPA, do members believe that the NPA is appropriately funded?23. Does Parliament accept joint accountability for our obligations to FATF and the consequences of non-compliance? |
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Contingency reserve

24. A 'contingency reserve' as defined in the Budget Review is an amount set aside, but not allocated in advance, to accommodate changes to the economic environment and to meeting unforeseeable spending pressures (*such as natural disasters or pandemics – our insertion in italics*).
25. A worrying trend has developed where the contingency reserve is being utilised by National Treasury as a "suspense account" where foreseen expenditure that the National Treasury want to keep as conditional grants are budgeted for in the contingency reserve.
26. Examples of this include the bailouts for SAA and now R5 billion for the Land Bank.
27. Since the 2022 Budget was prepared, the floods in KZN have had a devastating effect on the lives and infrastructure situated in the province. Estimates are that the damage

⁴ <https://www.msg-compliance.de/en/blog-item-en/what-are-the-consequences-of-turkey-s-inclusion-in-the-fatf-grey-list>

will amount to R17 billion⁵ and R25 billion⁶. This should normally be funded out of the contingency reserve.

28. In the media statement on the briefing of the National Treasury to SCoA on the Appropriation Bill held on 3 May 2022, the following was mentioned:

“The committee asked if another Appropriation Bill was in the pipeline to deal with the aftermath of the floods in KwaZulu-Natal and the Eastern Cape. National Treasury said for now, this was not expected as the response has been included in the existing budget.”

29. We are, however, unclear as to how this is possible considering that the floods took place after the Budget was prepared and approved by the SCoF. On reading the summary of the above meeting, the National Treasury mentioned the ways that the floods disaster will be funded:

30. *“Municipalities, whose financial year ends in June, can divert some of their remaining funds as needed for the disaster. Around R1 billion has been allocated to the Department of Human Settlements (DHS) and CoGTA. Considering that the financial year has only just started, departments have the opportunity to move some of the funding that was appropriated to deal with the disaster. Departments can also apply for unforeseeable and unavoidable expenditure, which will be considered around June or July. The contingency reserve will be used to deal with the requests.”*

31. It is therefore apparent, that funds that were allocated to municipalities/departments for other purposes, can now, according to the above, be diverted to funding the flood disaster expenses, unless an application to use the contingency reserve is applied for.

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| 32. <u>Submission</u> : Is the SCoA satisfied that if the municipalities/departments reallocate their money from their current budgets as suggested by National Treasury to fund the flood relief claims, that service delivery/purchase of goods will not be negatively impacted? |
|--|

33. Should the use of the contingency reserve be the chosen option by certain municipalities to fund the flood claims, it is important to note that the balance of the contingency reserve for 2022/23 only amounts to R10 billion. Of this, R5 billion is already allocated to the Land Bank and we understand that R1 billion has been allocated directly to immediately be available for the flood relief⁷.

34. Furthermore, there is the matter of the R3,5 billion funding that the Minister of Public Enterprises has noted will be required for the SAA restructure and which the Minister of Finance had indicated was not budgeted for.

⁵ <https://www.news24.com/news24/southafrica/news/flood-costs-revised-from-r950-billion-to-r17-billion-but-kzn-government-says-was-honest-error-20220425>

⁶ <https://www.dailymaverick.co.za/article/2022-05-11-department-reallocations-of-funds-for-flood-relief-still-unclear-as-kzn-cogta-tables-its-budget/>

⁷ <https://www.dailymaverick.co.za/article/2022-05-11-department-reallocations-of-funds-for-flood-relief-still-unclear-as-kzn-cogta-tables-its-budget/>

35. Thus there is arguably a maximum of only R4 billion but in reality probably only R0,5 billion remaining to fund the R17 to R25 billion flood disaster costs (and any other natural disaster and/or pandemic costs (such as the fifth wave of COVID should it occur)). This results in the contingency reserve being **underfunded by between R13 to R21 billion** in 2022/23 (assuming all flood related costs will be funded from the contingency reserve – which is the purpose for which the reserve was created).
36. Unallocated and allocations not assigned to votes are other possible avenues.

Table 3.8 Main budget framework							
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
	Outcome			Revised estimate	Medium-term estimates		
R billion/percentage of GDP							
Revenue							
Gross tax revenue after proposals	1 287.7	1 355.8	1 249.7	1 547.1	1 598.4	1 694.3	1 807.6
Non-tax revenue	23.9	27.6	26.3	42.6	30.6	27.7	28.6
SACU ¹	-48.3	-50.3	-63.4	-46.0	-43.7	-66.5	-65.5
National Revenue Fund receipts	12.0	12.8	25.8	5.3	2.6	4.8	3.4
Main budget revenue	1 275.3	1 345.9	1 238.4	1 549.1	1 588.0	1 660.2	1 774.2
	23.5%	23.7%	22.2%	24.8%	24.7%	24.4%	24.5%
Expenditure							
National departments	634.3	749.8	790.5	831.1	824.7	770.9	805.7
Provinces	572.0	613.4	628.8	661.2	682.5	667.3	690.2
Local government	118.5	123.0	137.1	135.3	150.6	160.5	170.1
Contingency reserve	–	–	–	–	10.0	5.0	5.0
Provisional allocation not assigned to votes	–	–	–	–	5.6	28.3	32.1
Unallocated reserve	–	–	–	–	–	25.0	30.0
Non-interest expenditure	1 324.8	1 486.2	1 556.4	1 627.6	1 673.5	1 657.0	1 733.0
Debt-service costs	181.8	204.8	232.6	268.3	301.8	335.0	363.5
Main budget expenditure	1 506.6	1 691.0	1 789.0	1 896.0	1 975.3	1 992.0	2 096.6
	27.8%	29.7%	32.1%	30.3%	30.7%	29.3%	29.0%

37. However, we understand that the provisional allocation includes support for Eskom (R21 billion in 2023/2024 and R22 billion in 2024/25), amounts for Budget Facility for infrastructure projects and other provisional allocations and that the unallocated reserve is for potential expenditure not allocated to a particular use.
38. Either way, unless an estimate of these expenses were expressly budgeted for, it is our understanding that reallocations from existing budgets will more than likely have an impact on service delivery.
39. Submission: Are members satisfied that the contingency reserve is used as a 'suspense account' to pay the R5 billion to the Land Bank rather than an account for unforeseen emergencies. Will the additional funding (R3.5 billion) required for SAA (see point 53.1 below) also be funded from the contingency reserve, pushing it even more into the red?
40. Are members aware of what services will no longer be delivered should municipalities/departments use a portion of their current budgets to fund the flood disaster efforts?

41. Do members know where the additional funds will come from to make up for the shortfall in the contingency reserve – that is will further debt need to be taken out to fund this shortfall?
42. If further real unforeseen emergencies occur (as has happened with the KZN floods), will the government have sufficient financial resources to address these emergencies considering the estimated balance of the contingency reserve over the next three years?

SARS funding

43. An efficient and effective SARS is crucial to tax revenue collection. However, in 2021, Commissioner Kieswetter stated that SARS will have to battle with a R9 billion deficit over the next three years, despite it receiving an additional R3 billion over the next three years. The 2022 Budget indicates that the National Treasury will continue to engage SARS on its funding challenges in light of its important work.
44. We agree that all organs of state may need to tighten their belts and agree that the “informal 1% cost in respect of tax collections” incurred by SARS is not always a good high-quality indicator of efficiency of collections. However, an inefficient and ineffective SARS is a burden to society and a risk to fiscal sustainability of the country and we should therefore prioritise investment in this area.
45. We are therefore still concerned that SARS has insufficient funds to meet its April 2022 deadline for implementation of GRAP⁸ and that it cannot successfully fulfil its mandate. With regards to the later, research⁹ has shown that improving the delivery of a Revenue Authority’s services will in turn improve the taxpayer’s experience and ultimately their compliance, which increases fiscal revenue and reduces the cost of collection.
46. SAICA has seen an increase in taxpayer dissatisfaction with SARS’ services as is evidenced by the number of operational queries received from our members as well as the lengthy agenda of the SARS/Recognised Controlling Body National Operations meeting. Concerns include SARS not taking responsibility for their actions, such as the recent identity theft of taxpayer profiles and delays in VAT refund payments. This is affirmed by the volume increases by the Office of the Tax Ombud where enquiries are up from 5 904 (2015) to 12 147 (2021) and complaints from 2 134 (2015) to 2 967 (2021). In addition, for 2021, there was 2 384 complaint progress follow ups from existing unresolved complaints.
47. Although we acknowledge that SARS has made some headway on bringing tax defaulters to book, there is a general concern that compliant taxpayers are being targeted whilst the evaders are getting away scot-free. It will also take money to collect

⁸ The Accounting Standards Board, in April 2012, approved the adoption GRAP in the Public Sector to replace the Modified Cash Basis of Accounting (MCB) and SARS asked for multiple extensions, the last till April 2022. See our comments on the benefits of accrual accounting and the status of adoption: <https://www.saica.org.za/resources/122997>

⁹ <https://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/46274793.pdf>

money from high-net worth defaulters who seem to contribute quite significantly to SARS' debt book¹⁰.

48. Given the draconian powers SARS are vested with, that significantly but legally limit taxpayers' constitutional rights, a higher standard of oversight should be exercised over SARS. Unfortunately, as documented in the Nugent Commission and various other reports including the Budget Review and Tax Ombud reports, this oversight has been lacking and it has become a challenge in elevating such oversight and intervention to a level that is appropriate for SARS' draconian powers.
49. A structural review of the governance of SARS was promised after the 2018 Nugent Commission, yet no public consultation process was followed, with taxpayers being one of the victims of the governance failures at SARS.
50. The Minister notes that a document will be published for comment yet concludes that most of the recommendations have been implemented. This is a major oversight by the Minister in ensuring an effective, fair and efficient SARS.

51. Submission: Though we are coming from a low base, optimistic tax revenue targets have been set given the growing negative economic indicators, so are members satisfied that SARS has sufficient resources to continue its drive to use high-tech systems to target non-compliant taxpayers and to deliver its services to compliant taxpayers in such a way that it will not negatively influence their tax compliance behaviour? Also do these ambitious targets incentivise the wrong SARS behaviour when oversight is lacking?
52. Considering that the questionable practices resulting from the non-implementation of GRAP by SARS (and the whole public sector), are members aware of National Treasury's progress in this regard and is the delay acceptable to you?

Unbudgeted expenditure

53. Unbudgeted items remain a significant risk to the credibility of the budget. These include:

- 53.1 *SOEs' contingent liabilities* – **R1.17 trillion** guarantees are a lot closer in principle to being government debt as in our view the last 10 years have shown that on a balance of probability, they are more likely than not will need to be converted to bailouts or state funding. As noted above, the 2022/23 contingency reserve is increased by R5 billion to make provision for a conditional allocation to the Land Bank. Added to this, is the concern noted by the National Treasury that it appears that SAA will remain a financial burden for taxpayers as the terms of the sale appear to be heavily skewed towards the buyer – which may result in the government having to provide funds in excess of its shareholding¹¹. SASRIA was also awarded R22 billion to settle its claims

¹⁰ https://www.thesouthafrican.com/news/business-news-and-finance/breaking-these-south-africans-owe-r14-billion-sars-unpaid-tax/?utm_term=Autofeed&utm_medium=Social&utm_source=Facebook&fbclid=IwAR2GL5SIKoDreMPlRfzW9dKlZ4dtbE3ITH62IVAB4qq6-QS50VbA Tx lzM#Echobox=1652794177

¹¹ [SAA could remain financial burden on state despite selling major stake, Treasury warns | Fin24 \(news24.com\)](#)

and to ensure that it has sufficient capital to meet regulatory requirements. The question is why was SASRIA underfunded, considering it was meant to cover nationwide claims in respect of civil commotion, riots, strikes and terrorism (not just claims for rioting in KZN and parts of Gauteng)? With some SASRIA increases reaching 1 736%, one wonders if SASRIA had credible premiums previously and if the new premiums were sufficient to handle a similar situation were it to happen again?

- 53.2 *Municipalities* – the financial position of just over a quarter of municipalities is so dire that there is significant doubt that they will be able to continue operating as a going concern in the near future. This effectively means that such a municipality does not have enough revenue to cover its expenditure and owes more money than it has. Almost half of the other municipalities are exhibiting indicators of financial strain, including low debt recovery, an inability to pay creditors, and deficits.
- 53.3 *Water and sanitation* – infrastructure is imploding and access to drinkable water is becoming more problematic and it is doubtful that the additional budget allocation of R2.3 billion over the next three years will be sufficient.
- 53.4 *Police* – Crime remains a fundamental problem in growing our economy and the state of the Police remains a concern with effective service delivery decreasing as reflected in the crime statistics. The Police’s ability to apply resources effectively is also a concern with R4 billion unspent even with all the lack of vehicles and equipment and state of disrepair at most police stations. In this regard the Minister’s assessment that the Police will be supported by an increase of R8,7 billion in the medium term requires unpacking.

Table 5.4 Consolidated government expenditure by function⁺

	2021/22 Revised estimate	2022/23 Medium-term estimates	2023/24 Medium-term estimates	2024/25 Medium-term estimates	Percentage of total MTEF allocation	Average annual MTEF growth
R million						
Police services	108 453	110 220	108 577	114 222	6.0%	1.7%

A R2bn increase is expected for 2022/23 and then a further R6bn in 2024/25. The latter increase will be eroded by inflation (assuming inflation at 5%, the effective budget available at 2025 would only be R97 billion) and this begs the question as to how the appointment of the 12 000 new police officers promised by the President in the SONA will be funded?

A further anomaly is that in terms of the Budget Speech documentation, the Police will be allocated R110 billion in 2022/23 (see above), but in terms of the Appropriation Bill (see below), the Police will be allocated R100 billion? We are not sure if this is due to there being a difference between the Police and the Police Service?

Vote		Main Division	Current Payments			Transfers and Subsidies	Payments for Capital Assets	Payments for Financial Assets
			Compensation of Employees	Goods and Services	Interest and Rent on Land			
		R'000	R'000	R'000	R'000	R'000	R'000	R'000
28	Police Purpose: Prevent, combat and investigate crime; maintain public order; protect and secure the inhabitants of South Africa and their property; and uphold and enforce the law.	100 695 315	79 137 378*	16 736 234		1 259 399	3 562 304	

53.5 *Litigation costs* – the AG stated that there are increasing claims against departments, flagging an emergency risk. What we have noted is that for:

- Health this amounts to **R105 billion**¹²,
- Police it is **R16 billion**¹³ ; and
- Education, (amount unconfirmed)¹⁴.

It seems that no provision is made for contingent liabilities as to legal claims and therefore when they happen, they erode the current year budgets as they are expensed when the department has cash flows, but at the expense of other budget items.

53.6 *IRBA* – IRBA is auditing industry regulator in South Africa and its financial sustainability is in jeopardy considering a High Court judgement, which if not successfully appealed, will require it to repay auditors just over **R60 million** (this is almost half of its budget) and IRBA will then have to increase its reliance on the government to ensure its sustainability¹⁵.

53.7 *GEPF* – has a long-term funding shortfall of approximately **R2.5 billion** per year according to its latest actuarial report (31 March 2021)¹⁶.

54. Submission: As the Minister commented, to pay for a R50 billion item would require a 2% VAT increase or personal income tax marginal rate increase. The perilous state of

¹² <https://hsf.org.za/publications/hsf-briefs/addressing-provincial-health-departments-medicolegal-claims-liability-developing-the-law-of-delict>

¹³ <https://www.iol.co.za/news/politics/r16bn-that-is-the-amount-police-are-facing-in-civil-claims-339bc82a-1263-4cbc-ab25-841ee656d585>

¹⁴ <https://www.news24.com/news24/southafrica/news/sahrc-starts-legal-action-against-five-provincial-education-departments-over-pit-toilets-at-schools-20211221>

¹⁵ <https://www.businesslive.co.za/bd/national/2022-05-10-auditor-watchdog-faces-r60m-bill-if-it-loses-appeal-in-payback-case/>

¹⁶ The GEPF, as at the valuation date in 2021, met the minimum funding level; however, it did not meet its long-term funding objectives (74,3% (2018: 75.5%) versus the required 100%) and in 202, the fund was not solvent as its liabilities exceeded its assets by an estimated R133 billion – see <https://www.dailymaverick.co.za/article/2022-04-28-how-financially-sound-is-the-government-employees-pension-fund/>. Based on the recommendation of the actuaries, the government should increase its contribution rate by approximately **R2.5 billion per annum**.

SOEs and municipalities, are seriously concerning and access to clean water is under threat, yet many of these concerns have not/are only partially addressed in the Budget.

55. Are members satisfied that the budget is credible without considering these expenses items and that Parliament has exercised proper oversight when amounts that clearly should be budgeted for are not?
56. How does Parliament believe the 12 000 additional police officers will be appointed when after **adjusting for inflation** the police will have a lower budget in 2025 than in 2022?
57. Do members know why there is a difference between the Budget allocating R110 billion to police services and the Appropriation Bill allocating R100 billion to the police?
58. From where is government going to obtain the additional R2.5 billion per annum needed to fund the shortfall in the GEPP?

GENERAL COMMENTS

Pre-spending of next year's budget

59. According to section 5(1) of the Money Bills Amendment Procedure and Related Matters Act No. 9 of 2009, the National Assembly, through its committees, must annually assess the performance of each national department, with reference to the following:
 - 59.1 The medium-term estimates of expenditure of each national department, its strategic priorities and measurable objectives, as table in the National Assembly with the national budget;
 - 59.2 Prevailing strategic plans;
 - 59.3 The expenditure report relating to such department published by the National Treasury;
 - 59.4 The financial statements and annual reports of such department;
 - 59.5 The reports of the Committee on Public Accounts relating to a department; and
 - 59.6 Other information requested or presented to a House or Parliament.
60. Section 5(2) also requires committees to annually submit budgetary review and recommendations reports (BRRR) for each department. These BRRRs:
 - 60.1 Must provide an assessment of the department's service delivery performance given available resources;
 - 60.2 Must provide an assessment on the effectiveness and efficiency of the departments use and forward allocation of available resources; and
 - 60.3 May include recommendations on the forward use of resources.
61. Taking these requirements into account, it is worrying to note that according to the 2020/21 Auditor General PFMA Report, *almost a third of departments* ended the year in a deficit, which came to a combined R41,74 billion. In addition, over 60% of departments did not have sufficient funds to settle all their liabilities at year-end, with cash shortfalls totalling R33,29 billion.

62. The consolidated cash shortfall of the 27 departments (18%) that had already spent more than 10% of their 2021-22 operating budget (excluding employee costs and transfers) amounted to R31,08 billion, with the highest percentage incurred by the Department of Social Development (national), the Office of the Premier (FS) and the Department of Public Works (KZN).

Key financial health indicators at departments – sustainability

Indicators	2020-21
Sustainability	
Deficit (expenditure exceeded revenue)	R41,74 billion
Number of departments with deficit	32% (50)
Cash shortfall (bank overdraft less prepaid expenses/advances plus money to be surrendered to treasury)	R33,29 billion
Number of departments with cash shortfall	61% (89)
>10% of following year's budget (excluding employee cost and transfers) will fund current year's shortfall	18% (27)
Bank in overdraft	19% (30)
Estimated settlement value of claims against the state at year-end	R166,07 billion
Number of departments with unsettled claims	94% (138)
Claims settlement value >10% of following year's budget (excluding employee cost and transfers)	37% (55)

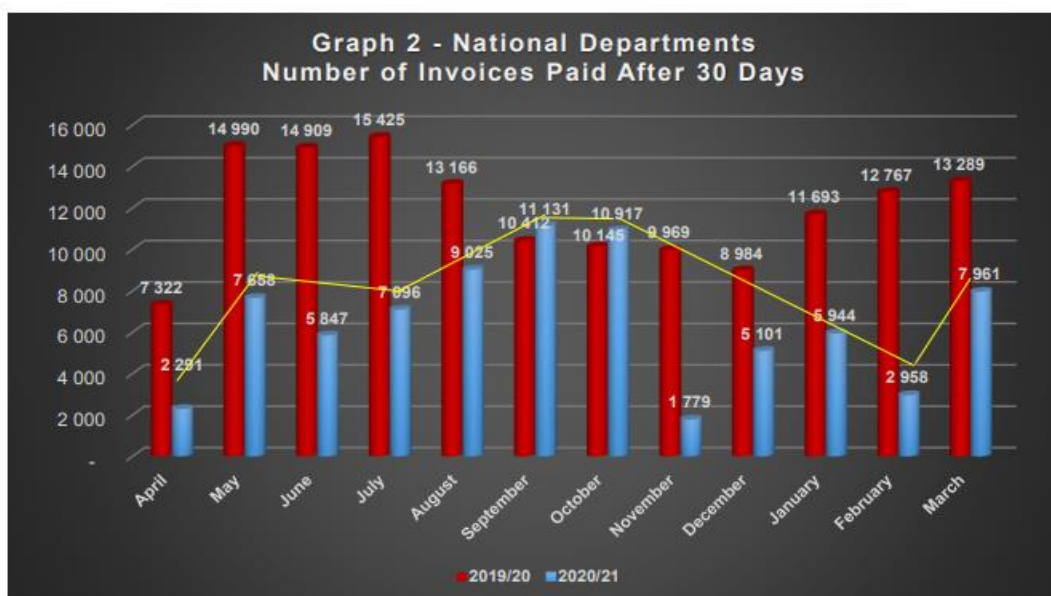
63. This means that the viability of these departments, and their ability to deliver on their mandates, is in question, as they started the 2021-22 financial year with part of their budgets effectively pre-spent.
64. From a local government perspective, there were many municipalities that owed creditors more money than what was available in the bank. As a result, these municipalities also had to dig into their next year's budget to cover the current year's expenditure. The total deficit in local government was R7,44 billion, and expenditure exceeded revenue at year-end at 55 municipalities.

65. Submission: Are members satisfied that allocating more resources to departments/municipalities that are unable to operate within their budgets is acceptable?
66. Are members satisfied that service delivery budget for will not be impacted by the pre-spending of budgets?

30-day payment rule for SMEs

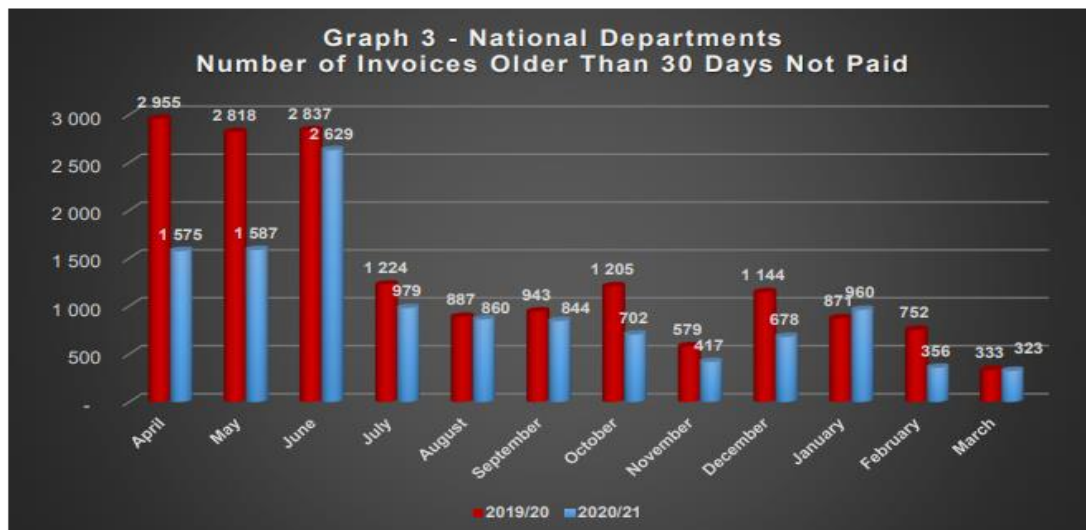
67. Late payment to small businesses by government impacts their survival as they are heavily dependent on their cash flows. This further negatively impacts government's aim of creating jobs and growing the economy.

68. The Public Service Commission, in December 2021, continued to raise the alarm about the national and provincial government departments' slow adherence to a 30-day supplier payment policy¹⁷.
69. Not only are the government departments not paying within the 30 days, they are also not submitting their 30 day payment exception reports on time or failing to submit their reports at all for particular months. These exception reports should contain the following information:
- a) the number and value of invoices paid after 30 days from the date of receiving invoices
 - (b) the number and value of invoices that are older than 30 days, which remained unpaid
 - (c) the reasons for the late and/or non-payment of the invoices referred to above.
70. The National Treasury, in its an [annual report](#) on non-compliance with payment of suppliers' invoices within 30 days, dated 12 August 2021, indicated that national departments achieved an annual average timeous submission rate of 73% during the 2020/21 financial year. This represents a regression of 12% when compared to the annual average timeous submission rate of 85% achieved in the 2019/20 financial year.
71. Only 8 (20%) of national departments submitted all the reports for the period timeously. Even more worrying is that according to this report, some departments did not even develop and implement electronic systems to utilise as a tool to submit these reports.
72. Although the number of invoices paid after 30 days and the number of invoices older than 30 days paid after 30 days improved by 46% for the 2020/2021 financial year when compared to the 2019/2020 financial year amid the restrictions posed by the Covid-19 Pandemic.



¹⁷ <https://www.news24.com/news24/southafrica/news/govts-slow-adherence-to-30-day-supplier-payment-policy-remains-a-concern-public-service-commission-20211207>

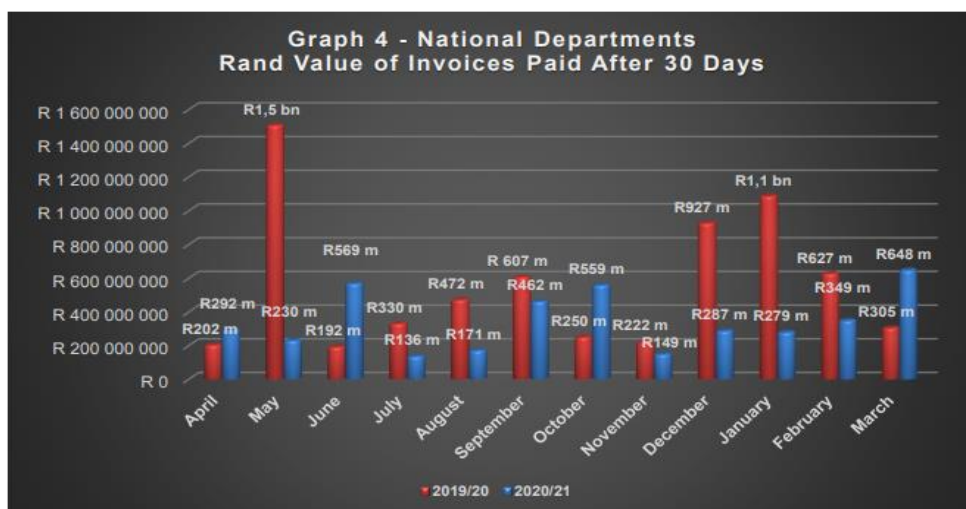
73. The number of invoices that were not paid at the end of the 2020/21 financial year only improved by 3% from 2019/2020.



74. The departments of Defence, Public Works (including PMTE) and Water and Sanitation were urged to prioritise improving their internal controls as they still reflect high numbers of invoices paid late – refer to table below. Furthermore, the department of Water and Sanitation recorded the highest regression in the number of invoices older than 30 days and not paid and also recorded the highest number of invoices at hand as at the end of 2020/2021 financial year.

Table 5: National Departments Departments that recorded the highest number of Invoices Paid After 30 Days		
Name of Department	2020/2021 Number of invoices	%
Defence	54 172	70%
Public Works (including PMTE)	9 512	12%
Water and Sanitation (including trading account)	4 745	6%
Police	3 308	4%
Correctional Services	2 533	3%
Total	74 270	95%

75. The annual average Rand Value of invoices paid after 30 days amounted to **R344 million** in the 2020/2021 financial year, which is a noticeable improvement of 39% when compared to 2019/2020.



76. Not only did the department of Water and Sanitation (including trading account) contribute 70% towards the Rand Value of invoices paid after 30 days during the 2020/2021 financial year but it also contributed 95% towards the Rand Value of invoices older than 30 days not paid as at the end of 2020/2021 financial year.
77. From a provincial department perspective, the Rand value of invoices older than 30 days and not paid at the end of 2020/2021 financial year amounted to **R5.3 billion**. This represents a regression of 23% when compared to the Rand value older than 30 days and not paid at the end of 2019/2020 financial year.
78. The table below sets out the number and Rand value of invoices paid after 30 days, highlighting that the Eastern Cape province was the highest contributor towards the number of invoices paid after 30 days during the 2020/2021 financial year, followed by Gauteng province.

Table 10: Performance of provinces regarding the Number and Rand Value of Invoices Paid after 30 Days			
Province	Number of invoices	Rand Value of invoices	%
Mpumalanga	348	35 232 262	0%
Western Cape	2 719	411 347 555	1%
Limpopo	5 829	560 032 910	3%
Northern Cape	7 094	905 373 709	3%
Free State	8 854	1 241 334 849	4%
Kwazulu-Natal	24 502	5 427 525 636	11%
North West	48 683	3 705 755 100	21%
Gauteng	63 576	7 836 885 671	28%
Eastern Cape	65 585	5 745 301 211	29%
Total	227 190	25 868 788 903	100%

79. The most common reasons for the late and/or non-payment of invoices include, *inter alia*, lack of internal controls, poor budgeting and lack of alignment between the budget

and procurement plans and lack of human capacity within the departments. It is evident that the root causes identified in the 2019/2020 financial year were not addressed in the 2020/2021 financial year and recommendations provided in the 2019/2020 financial year were also not considered in the 2020/2021 financial year.

80. Submission: Considering the dire impact the late or non-payment of invoices has on the sustainability of SMMEs in contributing to job creation and inequality issues, are members of SCoA satisfied that all is being done to ensure reasonable levels of compliance by national and provincial departments with the requirements to pay invoices within 30 days?
81. Are members aware if the payment of invoices within 30 days are included in the performance agreements of accounting officers, CFOs and other officials working in this area and if so, have the necessary disciplinary actions been taken against those who fail to comply with the requirements?

Appropriation versus performance

82. The credibility of the budget estimates and the budget process is contingent on the degree of proper oversight and appropriate intervention exercised by those tasked with oversight to ensure accountability for implementation.
83. The Joint Standing Committees on Finance (JSCoF) have the power to either approve or amend the budget in fulfilling their mandate and purposefully sought this oversight mechanism and the corresponding support structure to implement this function¹⁸.
84. A budget and appropriations should only be approved if it is credible in terms of the relevant criteria¹⁹. To be credible a budget needs consideration of not only the future estimated revenue and expenditure, but also an analysis of historical and current collection and spending trends.
85. The credibility of the budget process is in question given the historical mismatch between planned service delivery and spending patterns. As explained above, continued funding will be provided to departments where more than 10% of their following year's budget is committed to historical liabilities creating current year shortfalls. Budget increases are also approved for Departments who spend 100% of their budgets in delivering not even half of the budgeted and planned services.

86. Submission: Although we agree that the SCoF and SCoA are not solely responsible for the credibility of the budget, Parliament as a collective is and it is Parliament that determines how it arranges its affairs.
87. We suggest that the SCoA, the relevant Portfolio Committee and the Standing Committee on Public Accounts (SCoPA) join the JSCoF Budget Review public hearings

¹⁸ <https://static.pmg.org.za/docs/080718draftmoneybill.pdf>

¹⁹ Section 214(2) and 215(1) of the Constitution of the Republic of South Africa 1996

to ensure that there are no gaps in the budgeting process so that a credible budget can be approved and suitable appropriations made.

88. It is submitted that a proper and credible oversight of future estimations cannot be made without being properly informed as to historical actual spending and performance which should be reviewed prior to the budget by Parliament and its committees.
89. In this regard we recommend that Parliament review its committee mandate concerning the separation between SCoF, SCoA and SCoPA to ensure that oversight obligations don't fall in-between the cracks and that Parliament is effective as a single collective arm of government.

Oversight and accountability

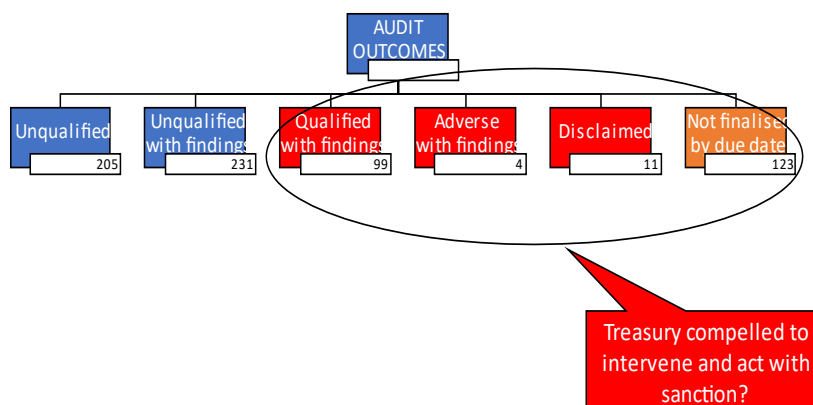
90. It is important to note that a well-designed fiscal framework should help to lead to more sustainable public finances and *internalise the costs of fiscal indiscipline*²⁰. The role of the SCoA is to ensure that the spending as anticipated in the Budget is appropriated correctly to the different departments.
91. The United Nations University-Wider Working Paper 2022/3²¹ and the IMF Report on South Africa²² highlight that South Africa's policies are sound, but it's the implementation of these policies that is lacking.
92. This concern is evidenced by the yearly Auditor General Reports that continue to show a dismal picture of implementation of policies across the provincial and municipal sectors. If one merely considers the audit report status of these entities, it is evident that there are 99 departments/ municipalities that have qualified audit reports with findings, 4 with adverse findings, 11 with disclaimers and 123 with audits that were not finalised by due date (which is problematic in itself).

²⁰ Nerlich, C. & Reuter, W.H. 2013. The design of national fiscal frameworks and their budgetary impact.
<https://www.ecb.europa.eu/pub/pdf/scpwps/ecbwp1588.pdf>

²¹ Macroeconomic risks after a decade of microeconomic turbulence, South Africa (2007 – 2020):
<https://www.wider.unu.edu/publication/macroeconomic-risks-after-decade-microeconomic-turbulence>

²² South Africa: 2021 Article IV Consultation-Press Release: Staff Report; and Statement by the Executive Director for South Africa: <https://www.elibrary.imf.org/view/journals/002/2022/037/002.2022.issue-037-en.xml>

Audit findings and serious/persistent non-compliance (s216(2) Constitution) 2021



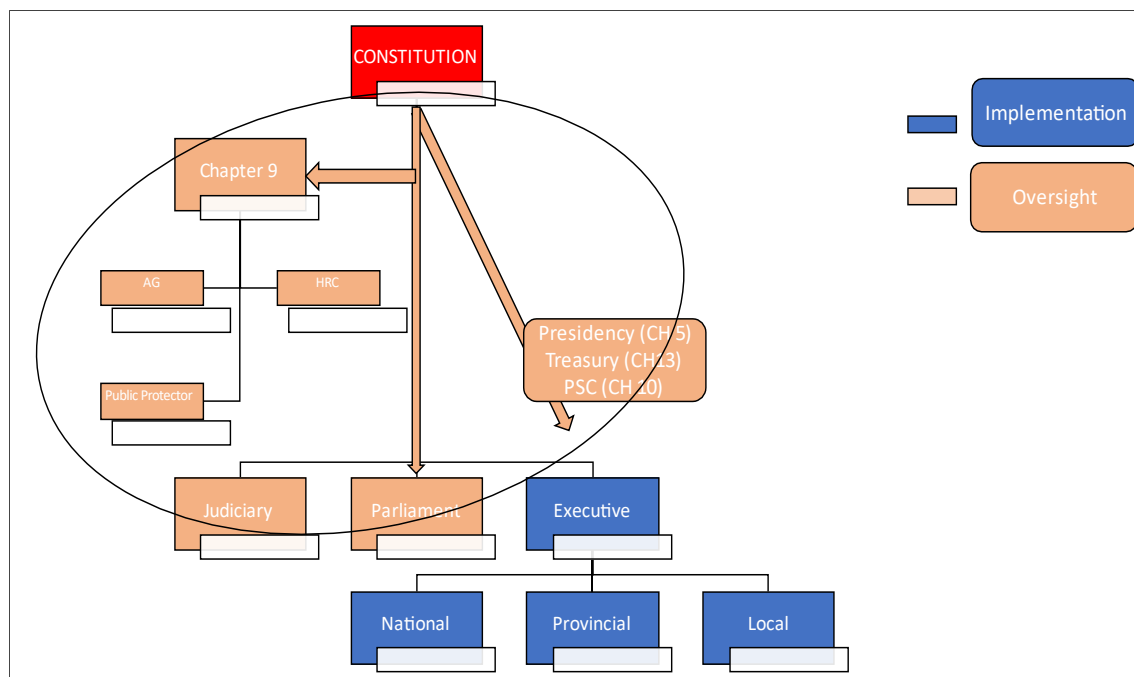
93. Why were those in charge of entities that received anything other than unqualified audits not disciplined/fired? Or were they? Do members know the answer to these questions?
94. As with any plan, the implementation thereof is a critical component for its success and the feasibility of implementation should be considered at the outset of any plan. It goes without saying, however, that when considering implementation, one also needs to consider who should be accountable therefor.
95. Section 216(2) states that the National Treasury **must** enforce compliance with the measures established in terms of subsection 216(1) of the Constitution – which includes the implementation of GRAP and enforcing sound treasury control measures – and may stop the transfer of funds to an organ of state if that organ of state commits a **serious or persistent material breach** of those measures.
96. The use by the Constitution of the word “may” is also in context permissive, not discretionary in our view given that National Treasury is compelled to implement treasury control by the use of the word “must” in the previous clause.
97. Thus, this section empowers the National Treasury to withhold allocations from the National Revenue Fund where there is a serious or persist contravention with Treasury Control measures. It is SAICA's view that the National Treasury has an obligation and not a discretion in enforcing treasury control as envisaged in section 216 and relevant other national legislation.
98. We have analysed various Parliamentary meetings and have noted isolated instances where the National Treasury has in fact applied the treasury control measures. However, SAICA's view is that the National Treasury is obligated to exercise treasury control

enforcement measures whenever a “serious or persistent breach” has occurred that has not been rectified.

99. This obligation, notwithstanding the extent of failure by all 3 spheres of the executive of the treasury control measures (especially in local government), is publicly documented in the AG Annual Report and is substantial rather than isolated.

100. Submission: Are members satisfied that the National Treasury has been sufficiently implementing its obligations in terms of section 216 of the Constitution to prevent not only pre-spending of future budgets but also the complete disregard for good financial management as is evident from the low number of unqualified audit opinions?

101. It is not only the National Treasury that bears the responsibility for ensuring that there is implementation especially as to fiscal sustainability. The accountability for oversight and implementation at the national, provincial and local levels of government can graphically be depicted as follows:



102. When delving further into who has the right of enforcement once oversight over implementation has been conducted, it was found that only a few “entities” have enforcement power. These include:

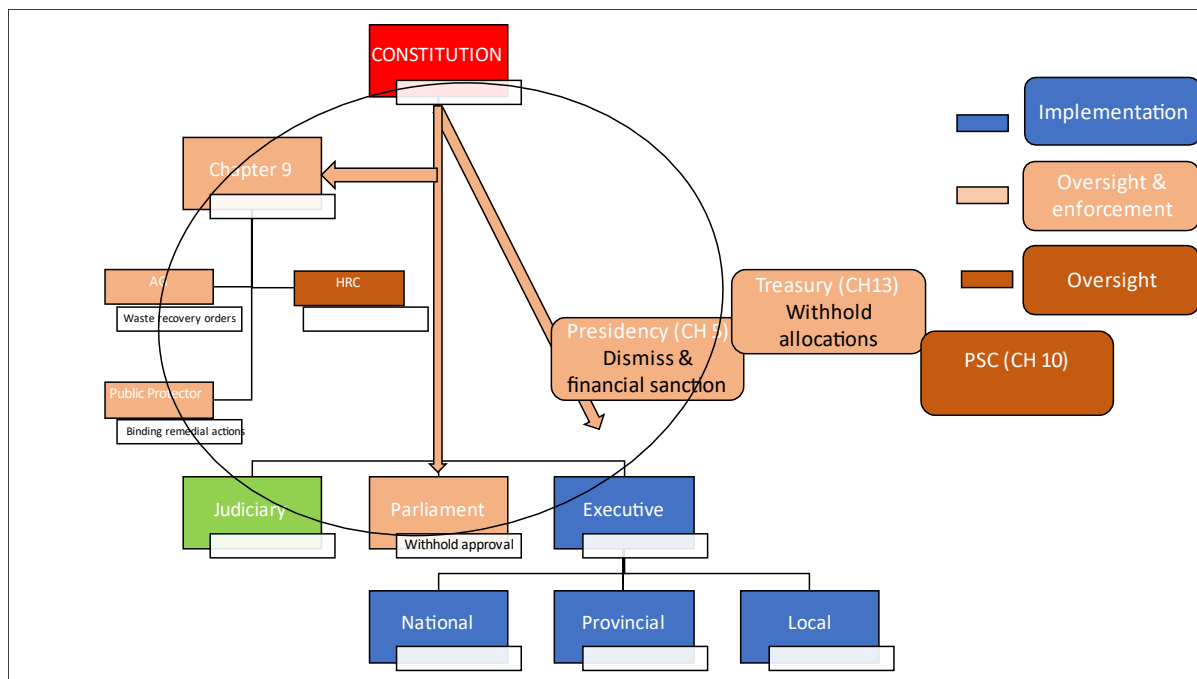
102.1 The Public Protector that can enforce binding remedial action;

102.2 Parliament that can withhold approval for appropriating legislation;

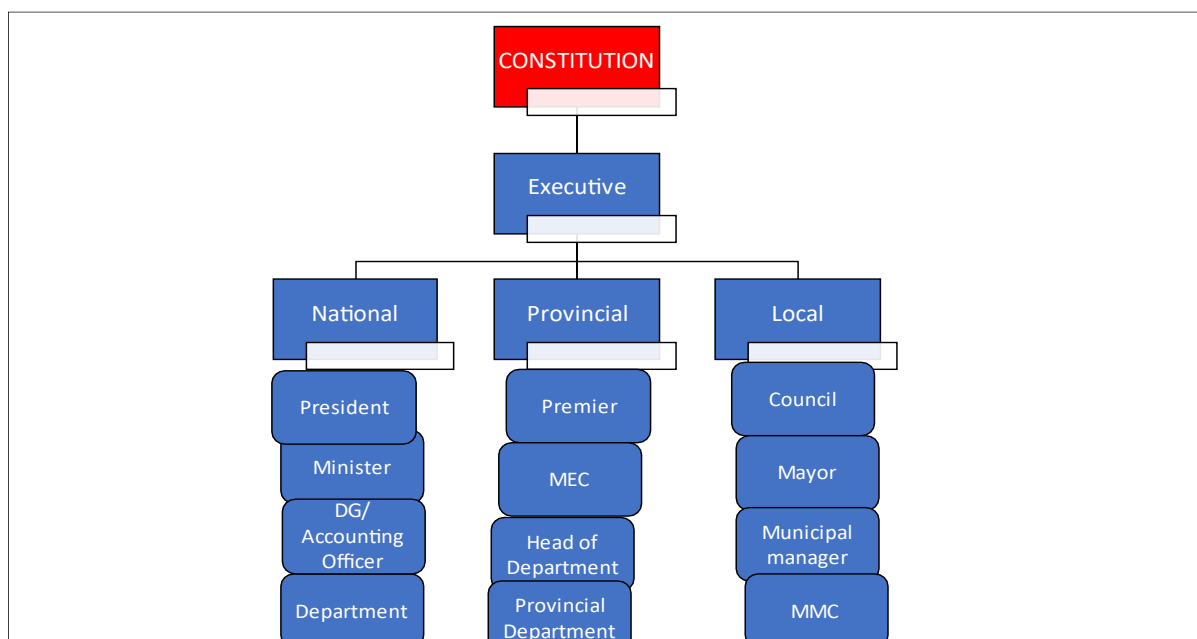
102.3 The Presidency that can dismiss individuals and call for financial sanctions of the Executive; and

102.4 The National Treasury that can withhold allocations from Departments (section 216 of the Constitution).

103. The above is depicted graphically on the next page:



104. This enforcement can be drilled down ever further in respect of the Executive:



105. Submission: Are members using their enforcement rights through amending budgets to ensure that the Executive is being held accountable for fiscal discipline failures?

CONCLUSION

106. On 23 February 2022, Fitch Ratings²³ noted that continuing breaches of expenditure ceilings points to difficulties in containing spending and it doubts that the National Treasury has the ability to contain government spending pressures.
107. Taking this into consideration, we urge members to ask more questions not only about the credibility of budget itself but also of the budgeting process.
108. Parliament's credibility is at stake because Parliament has to ultimately approve the budget and prove that it has interrogated the assumptions and that it is confident that the budgeting process will lead to a credible outcome.
109. We therefore conclude with a question for each member of both committees – Are you confident that you trust the budgeting process and that the outcomes will realise the plans that National Treasury has presented as fiscal policy in the Budget, as ultimately you are accountable to the people that this is indeed the case?

²³ <https://www.fitchratings.com/research/sovereigns/south-africas-debt-still-rising-despite-higher-revenue-23-02-2022>