

## **FMM 01.10 Formation, Restructure, Acquisition of New Public Entities including Subsidiary Statutory Bodies and Business Arms**

### **10.1 Authority and Prescribed Requirements**

- Public Finances (Management) Act 1995 (PFMA):
  - Section 47N and 64A Mandate consultation with the Treasurer and Finance Minister for restructuring or forming new statutory bodies which would also include subsidiary statutory bodies where a subsidiary has taken a controlling interest.
- Organic Law on Provincial Governments and Local-Level Governments (OLPGLLG) allows for the conduct of commercial enterprises.
- Companies Act 1997 Governs the formation and operation of entities established as companies, including the acquisition process.

### **10.2 Standards and Supporting Documentation**

- FMM Volume 3 on Public Investments and Interests in Commercial enterprises.
- Department of Finance Register of Public Entities

### **10.3 Minimum Responsibilities**

Finance department head is to review and recommend approvals for the formation or acquisition of public entities and to maintain a Register of Public Entities which is published.

Treasurer and Finance Minister are approvers of the formation, restructure, or acquisition of public entities, based on certificates of financial and accountability assessments.

The responsible agency is responsible for the submission of detailed business cases and financial impact assessments to justify the formation or acquisition. The departmental head is responsible for the notification of changes or formations to the Auditor-General and Secretary Finance.

Registrar of Companies oversees the incorporation of entities under the Companies Act, ensuring compliance with corporate regulations.

## **10.4 Mandated Policy**

- 1. The Department of Finance is to maintain a register of all Public Entities including related public sector enterprise or companies detailing ownership and other relevant information.**
- 2. This central register must capture entities also established from Provincial and Local-level Governments.**
- 3. Under Section 47N (for public bodies) 64A (for statutory bodies) of the PFMA prior to all proposals for the creation, reform or restructure, there must be the issuance of a certificate form both the Treasurer and Minister of Finance prior to consideration by National Executive Council.**
- 4. The Departments of Finance and Treasury is to be formally advised in writing of the establishment of a new public entity including a subsidiary statutory body and the details recorded in the Register of Public Entities.**
- 5. The re-naming of a business enterprise must be disclosed in the financial statements of an agency, must be properly authorised and if changed, must be also authorised and tabled with the Provincial Executive Council or the National Executive Council for endorsement where applicable.**
- 6. Any name or structural change must also be notified to the Department of Finance to update the Register of all Public Entities.**
- 7. When a company is transferred to another public entity or significant change in ownership or control occurs, the public entities involved need to ensure the process is undertaken in a timely manner and that the Finance Minister are informed of the change and approval is given by the Treasurer within his investment responsibilities under Section 3A of the PFMA.**
- 8. The Treasurer or delegated officer shall examine and consider a proposal as to the financial implications on the National Budget and shall issue a certificate that -**

- the proposal has been considered; and
- states the impact of the proposal on the National Budget; and
- states whether or not the proposal is supported and the changes, if any,
- required to the proposal prior to the grant of support.

**9. The Finance Minister or delegated officer shall examine and consider a proposal as to the impact of the proposal on financial accountability and shall issue a certificate stating that -**

- the proposal has been considered; and
- states the impact of the proposal on financial accountability; and
- states whether or not the proposal is supported and the changes, if any,
- required to the proposal prior to the grant of support.

**10.A certificate shall be attached to any submission to the National Executive Council for the creation, reform or restructure of a statutory body.**

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