

OFFICE OF THE CHIEF EXECUTIVE OFFICER

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Our Ref.: MANGAUNG METROPOLITAN MUNICIPALITY – CENTLEC (SOC) LTD MUNICIPAL DEBT RELIEF APPLICATION	Your Ref.: Attachment 1 – Motivation

**OFFICE OF THE CITY MANAGER
MANGAUNG METROPOLITAN MUNICIPALITY**
2nd Floor Braam Fisher Building
BLOEMFONTEIN
9300

Dear Madam

RE: MOTIVATION FOR MLM171 MANGAUNG METROPOLITAN MUNICIPALITY – CENTLEC (SOC) LTD MUNICIPAL DEBT RELIEF APPLICATION

1. PURPOSE

To motivate and obtain the approval of Council for MLM171 **CENTLEC (SOC) LTD** under **MANGAUNG METROPOLITAN MUNICIPALITY** to apply to the National Treasury for the Municipal Debt Relief package in terms of the issued MFMA Circular No. 124 on 31st of March 2023. The payment terms in the electricity supply agreement move from 15 to 30 days for the Municipalities and Metros. Debt write off arrears and penalties as per the Circular No:124.

Directors: MS Sekoboto (CEO), T Malgas (Company Secretary)



2. BACKGROUND

The current state of affairs in relation to the electricity crisis considering the ESKOM's court order success against NERSA in early 2021 regarding the significant inclining electricity prices by an average of 15.63% in April 2021, ESKOM commissioned an 8.61% charged tariff towards the Energy Entity for bulk energy opposite to the average regulated tariff by the National Electricity Regulator South Africa (NERSA) to the Energy Entity of 7.47%. This problem before trading to keep the lights burning through providing reliable energy as constitutionally mandated becomes a worse nightmare as 1.14% remains irrecoverable for the Energy Entity.

In view of the above, this there is a skewed tariffs charged by ESKOM to the entity at a rate of 8.61% while the entity only charges its customers 7.4% as approved by NERSA. The entity is unable to recover all the costs billed to it by ESKOM.

Following the 2023 Budget Speech delivered by the Minister of Finance, strong expression on the national challenges concerning the revenue generation and sustainable collection for municipal services within the municipalities remains one of the catastrophic risks in the fiscal environment. Following a combination of prolonged financial management failures in conjunction with the changing deteriorating economic circumstances that impeded amongst others the national electricity crisis, which aggregating the inability of consumers to pay for municipal services and that eventually position the defaulting of municipalities to pay the Electricity Supply Commission (ESKOM).

Subsequently, on the 31st of March 2023 the National Treasury issued the conditions for Municipal Debt Relief and the application process in MFMA Circular No. 124 as a initiative that can assist municipalities and their entities that will relieve the crisis however subject to support and persistent culture of good governance, improving on the effectiveness if revenue management processes and adhered to fiscal financial management behavior whiles embarking on finding the best solution for the ever-lasting overdue municipal debt balances.

The proposal of the Municipal Debt Relief is a leverage on government's bigger proposal of a debt relief package for ESKOM; with the aim to resolve the ESKOM's financial and debt crisis which also requires a solution to the nonpayment for electricity consumption by municipalities. In parallel, the challenges of defaulting municipalities and their entities cannot be isolated from the consumer culture / behavior for *"the culture of entitlement to not pay for municipal services."*



Notably, the MFMA Circular no.124 bestow the intended initiative to improve the financial position (balance sheet) and financial performance (operational facilitates) of ESKOM through the proposal to written off municipal debt under strict conditions and clear guidance of the National Treasury.

The Local Government sphere through this curb the ESKOM Debt Relief Application Process initiative to bear critical changes in the energy sector and simultaneously address a behavioral transition towards defaulters to adhered to specific conditions and in return in a form of an incentive relieve the gridlocked financial crisis of historical arrears debt.

3. SITUATIONAL ANALYSIS

The Consolidated Medium-Term Revenue and Expenditure Framework (MTREF) Budget of 2023/24 - 2025/26 budget is compiled in a distressed global economic outlook. There is significant evidence of a decline in economic growth and employment due to COVID-19 pandemic. The microeconomic results show that the pandemic moves the income distribution curve such that more households fall under the poverty line while at the same time, inequality worsened. The pandemic hit South Africa's economy at a time that the economy was already under substantial strain.

loadshedding has a significant impact (technical and monetary) on our monthly bill as a result that ESKOM not offsetting the unserved energy. Further, Table 1 below, depict the loadshedding statistical real-time data provides the impact and effect that loadshedding places financially and technically on the operations of the Entity.

MONTHS	LOADSHEDDING		
	EVENTS (DAYS)	DURATION (HOURS)	COST (R)
JANUARY 2022	-	-	-
FEBUARY 2022	6.00	15.00	2,905,715.78
MARCH 2022	7.00	17.50	4,664,129.65
APRIL 2022	10.00	25.00	4,177,189.10
MAY 2022	26.00	65.00	8,561,435.34
JUNE 2022	11.00	27.50	9,823,477.93
JULY 2022	22.00	55.00	11,189,281.51
AUGUST 2022	7.00	17.50	2,276,111.96
SEPTEMBER 2022	24.00	57.50	14,880,366.46
OCTOBER 2022	27.00	67.50	10,837,806.41
NOVEMBER 2022	30.00	75.00	7,652,835.94
DECEMBER 2022	30.00	75.00	8,786,172.74
TOTAL FOR PERIOD	200.00	497.50	85,754,522.81




Table 1: *Cost of Loadshedding*

It is worth noting that the cost of loadshedding during the month of January and February 2023 amounts to R 14,810,411.33 and R 2,930,602.46 respectively. The entity experienced infrastructure vandalism and cable theft during the load shedding amounts to **R 20 396 888.53**.

An affordable and sustainable energy supply can unlock economic potential by encouraging investment in the city and the province and thereby propelling the province to an above national economic growth rate. The entity intends to work for other alternative energy sources of energy during the coming year as part of its revenue enhancement strategy.

Given the sluggish growth and decreasing demand, the entity will concentrate the resources towards maintenance of the current network in order to minimise power outage and shorten supply disruption. Expansion programme will be held back; however, Service Delivery will be prioritised. Efforts to collect revenue will be strengthened and the entity will adopt zero tolerance on electricity theft, non-payment of bills, misuse of resources and network vandalism.

The revenue for the MTREF budget totals to an amount or projected revenue of R 3,704 billion in 2023/24, representing an increase of R 288 million or 5% on that of 2022/23 Adjustment Budget (R 3,413 billion.) The allocation for the two outer years of the MTREF period is R 3,864 billion in 2024/25 and R 4,043 billion in 2025/26.

The Operational Expenditure totals to projected expenditure of R 3,216 billion for 2023/24; representing an increase of R 132 million or 4% increase from that of the 2022/23 Adjustments Budget of (R 3,084 billion). The allocation for the two outer years of the MTREF period is R 3,354 billion in 2024/25 and R 3,510 billion in 2025/26.

The Capital budget of the Entity herewith presented amount to R 240 million for 2023/24, representing increase of R 38 million or 16% from 2022/23 Adjustments Budget of R 202 million. The allocation for the two outer years of the MTREF period is projected at R 247 million in 2024/25 and R 254 million in 2025/26.



3.1 FINANCIAL PERFORMANCE, POSITION AND CASH-FLOW

The following budget tables will be attached as support to the actual application to National Treasury.

D1 – Summary Overview

D2 - Financial Performance

D4 - Finance Position

D5 - Cash-Flow

SD1 – Key Performance Indicators that should be linked to MFMA Circular 88 to prove the service delivery priorities.

3.2 FUNDED MTREF 2024-2027

The draft MTREF budget is funded and makes adequate provision for 'depreciation and asset impairment' as well as 'debt impairment.'

3.3 COST REFLECTIVE TARIFFS

The tariffs determination for the budget submission is based on the approved NERSA Guideline for Municipalities published on the 4th of April 2023 which outlines an average guideline increase of 15.10% for which the relevant D-Forms and the application for approval of the tariffs will be submitted by the official due dates.

3.4 ELECTRICITY TOOLS

To demonstrate the effectiveness of the debt collection tools, in particular the Policies and By-laws and to illustrate how much was collected during the period based on the enforcement of the credit control measures, the relevant information will be included in the detailed application as supporting evidence to the application



3.5 COLLECTION RATE

The past trend of the collection rate and statistical information to prove collection between the different debtor categories and the month on month increase in terms of government debt which significantly affects the collection rate of the entity will also be attached to the actual application.

3.6 COMPLETENESS OF REVENUE BASELINE

The anticipated revenue as per total consumption of metered connections (Energy Charge) as well as the cost of new connections (Annexure B) including upgrading of existing connections as well as other non-core services rendered will be attached to the application to prove that the anticipated revenue as per the MTREF is reasonable and inline with the regulated tariffs including the cost reflective service charges.

4. RECOMMENDATIONS

To be within the compliance with the stipulated conditions as outlined in the MFMA Circular No.124, CENTLEC (SOC) Ltd hereby recommends that—

4.1 The motivation to apply to the National Treasury to qualify for the relief as set out in MFMA Circular No. 124 be noted and approved by Council as per the application criteria.

CERTIFICATION

Chief Executive Officer

CEO: Mr MS Sekoboto

Date: 31/05/2013





Municipal Debt Relief

MFMA Circular No. 124

Municipal Finance Management Act No. 56 of 2003

Municipal Debt Relief

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1. Background

- (1) *This Circular and the supporting measures it introduces must be seen within the context of and is consistent with MFMA s.34(2)¹ - additional steps to follow should these measures not result in the desired outcomes.*
- (2) *Reference to a municipality throughout this Circular must be read to also refer to and/ or include a municipal entity of that municipality, if applicable.*

- 1.1 The challenge of municipal revenue generation and collection existed for a long time and is described as a complex national problem. Often it is a combination of prolonged financial management failures in conjunction with changing/ deteriorating economic circumstances that lead to a municipality's inability to pay its creditors. However, at the core of the problem is *improper leadership behaviour* within municipalities.
- 1.2 Most defaulting municipalities are not generating adequate funding from their operations to sustain their operations. Faced with substandard and/ or the absence of reliable municipal services and perceptions of public money waste, the paying public further deteriorated. There are also inefficiencies in municipalities and Eskom that further aggravate the problem.
- 1.3 The Local Government Equitable Share (LGES) and conditional grants supplement most municipalities own fiscal ability. To enforce discipline for persistent Local Government failures, the National Treasury, to date, embarked on a vigorous LGES withholding processes. In addition, various stakeholders across government adopted numerous approaches to find a solution to the ever-increasing overdue municipal debt balances. This included the establishment of several special focus committees, the current Political Task Team (PTT) chaired by the Deputy President, and committees such as the Technical Task Team consisting of Director-Generals of various departments established under the Presidency. Most of these focused initiatives need a lot more work over the medium to longer term and have not yielded any visible improvement or require legislative amendments that will take time to effect before implementation. Therefore, none of the initiatives underway will relieve the crisis soon although some municipalities require support towards changing their current insolvent trajectory *while being mindful that* their persistent culture of financial mismanagement behavior led to their position.
- 1.4 *This proposal of Municipal Debt Relief is a leverage on government's bigger proposal of a debt relief package for Eskom; and it is noted that the primary problem government wants to resolve is Eskom's financial and debt crisis which also requires a solution to*

nonpayment for electricity consumption by municipalities. In parallel, the challenge of defaulting municipalities cannot be separated from a consumer culture to not pay for services. Without universally restoring debt collection, the debt will immediately start accumulating anew.

- 1.5 Government's debt relief package for Eskom is intended to improve the utility's balance sheet and facilitates this proposal that Eskom write off the municipal debt under strict conditions and with the guidance of the National Treasury. Government in this way is using its Eskom debt relief to bring about critical changes in the energy sector *and simultaneously address* a behavioural change in the municipal defaulters by requiring them to meet certain conditions and in return (as an incentive) relieve their gridlocked financial crisis of historic arrear Eskom debt. There are several conditions, all essentially aimed to *restore a set of basic minimum financial management best practices in municipalities* owing Eskom and change the municipal culture of not paying bulk suppliers and a municipal and Eskom culture to not collect revenue.
- 1.6 A critical component of the conditions therefore relates to achieving a funded budget. This encompasses cost-reflective tariffs, ensuring a complete revenue base, aligning spending patterns to collection levels and optimising and enforcing collection by using both electricity and water as collection tools. A municipality that is unable to pay its creditors must be prudent when spending and borrowing until financial health is restored, the conditions enforce this prudence. Municipal finances should focus on delivery of the core mandate of basic services. The conditions necessitate the ring-fencing/prioritisation of finances for this purpose.
- 1.7 It is anticipated that Municipal Debt Relief by writing-off the historic/ arrear Eskom municipal debt (as part of government's conditions for the debt relief to Eskom) facilitates the restore of financial best practice and could free some revenue in the municipalities owing Eskom, to maintain their current bulk accounts, other creditors and provide a reliable basic level of services. The National Treasury will publish the unfolding of Municipal Debt Relief on a quarterly basis in a schedule to the National Treasury: MFMA Section 71² statement and/ or in a separate publication as may be most appropriate.
- 1.8 In terms of section 2 of the Eskom Debt Relief Bill, 2023, government's advances to Eskom over the three financial years of the 2023/24 MTREF will amount to a loan. The Minister of Finance must determine conditions for the conversion of portion(s) of this

¹ Capacity building – the national and provincial governments must support the efforts of municipalities to identify and resolve their financial problems (MFMA s.34(2)).

² Section 71 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) ("MFMA").

loan into government equity. Government's proposed conditions for the broader debt relief for Eskom, include a set of conditions pertinent to Eskom practices in the municipal space and create a condition with Eskom.

1.9 The Municipal Debt Relief proposal consists of four elements:

- i. **Debt write-off:** Eskom is to write-off the municipal debt over three years subject to the municipality's compliance with the conditions.
- ii. **Resolving non-payment:** New mechanisms are being explored to deal with non-payment of electricity debt owed by municipalities, including requesting the National Energy Regulator of South Africa (NERSA)³ to amend the license conditions of municipalities to facilitate consequence management by NERSA for failure to honour electricity supply agreements (also in respect of payments) which may include re-assigning the licence.
- iii. **Pre-paid metering:** Eskom to continue to implement a regime of installation of smart pre-paid meters in Eskom supplied areas to improve Eskom's revenue collection. Municipalities must progressively adopt a similar operating regime.
- iv. **Municipal revenue enhancement initiatives:** The National Treasury continues to implement initiatives to address weaknesses in revenue management in municipalities. These initiatives include setting cost reflective tariffs, developing proper budget policies to facilitate revenue enhancement and ensuring completeness of revenue by addressing variances between the billing system and the general valuation roll (GVR). These initiatives are supported by the Municipal Revenue Management Improvement Programme (MFIP) technical advisors. A transversal tender for the smart meter solution (smart prepaid meters) will be issued to assist municipalities generate cash pre-service, rather than, post-service.

2. Municipalities to benefit from Municipal Debt Relief

- 2.1 The Minister of Finance's conditions for the conversion of portion(s) of the Eskom loan into government equity⁴ includes that Eskom completely write-off *the principal debt and interest and penalties of municipalities that owe Eskom as of 31 March 2023 (excluding the current Eskom March 2023 accounts) over a three-year period*. The approach is application based to concretise the implementation and secure accountability and does not require any additional funds from the fiscus.

³ Regulator means the National Energy Regulator established by section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004).

⁴ Section 2 of the Eskom Debt Relief Bill, 2023.

- 2.2 Eskom *in consultation with* the National Treasury **and only after** the municipality has met the applicable set of conditions to municipalities (to the National Treasury's satisfaction) to write-off a third of the municipality's debt annually (over three financial years). The municipality must meet the conditions applicable to municipalities set-out in 6.1 to 6.14, for 12 consecutive months to qualify for debt write-off – refer to the example timeline for debt write-off that follows:



- 2.3 Once the municipality's application for Municipal Debt Relief is successful (parallel to the enactment of the Eskom Debt Relief Bill, 2023), the benefit to the municipality will immediately commence with:
- 2.3.1 Any existing repayment plan with Eskom relating to this debt will come to an end – as long as the municipality meet the conditions for Municipal Debt Relief, it no longer needs to monthly repay any of the arrears, interest or penalties that it owed Eskom as of 31 March 2023⁵;
- 2.3.3 Eskom to stay the component of legal proceedings relating to this debt; and
- 2.3.2 Every time the municipality met the conditions of the Relief for 12 consecutive months, Eskom in consultation with the National Treasury, will write-off a third of this debt.
- 2.4 The municipality's continued benefit of debt write-off in year 2 (2nd third of the debt) and year 3 (the last third of the debt) is subject to the municipality meeting the conditions set-out in paragraph 6.1 to 6.14 for the 12 consecutive months respectively of years 2 and 3.

⁵ Excluding the March 2023 current account.

3. Municipal Debt Relief – Application/ Merit Based

- 3.1 Every municipality with arrear Eskom debt as of 31 March 2023⁶ may make a **written application** to the National Treasury for Municipal Debt Relief. The application must include the following minimum information:
- 3.2 A copy of the municipal manager and chief financial officer's joint motivation (a maximum of 5 pages) supported by council's resolution – explaining why the municipality should qualify to benefit from Municipal Debt Relief, including the service delivery and cashflow impact should the municipality's application be denied;
- 3.3 The municipal council's commitment to fully meet all the conditions set out in paragraph 6.1 to 6.14 **and** to demonstrate its compliance to these conditions to the National Treasury's satisfaction for a continued minimum period of 36 consecutive months once the municipality's application is approved;
- 3.4 **Council's approved plan to monthly monitor and report** the municipality's compliance with the conditions for Municipal Debt Relief (paragraph 6.1 to 6.14) to council, the National Treasury and the relevant Provincial Treasuries. The plan must include *in relation to each condition* –
- 3.4.1 The name(s) of the official(s) that will be responsible including the alternate responsible official in the event of death, illness or absence of the principal responsible official;
- 3.4.2 The contact details (email, office-telephone, and cellular numbers) of the officials referred to in paragraph 3.4.1;
- 3.4.3 The specific monthly delivery and reporting date(s) internal to the Municipal Manager and Council as well as to report to the National Treasury and the relevant Provincial Treasury by no later than 10 working days after the end of each month (parallel to the monthly MFMA section 71 statement);
- 3.4.4 The application to clearly confirm whether the assigned responsibility aligns to the municipality's approved delegations, alternatively include a commitment by council to update the delegations within one month from the date of the application and submit proof of such to the National Treasury and relevant Provincial Treasury;
- 3.5 The application to include a copy of *council's signed resolution and instruction* to the municipal administration to the effect that Council approved the motivation (refer 3.2 above), the conditions (refer 3.3 above and 6. below) and the municipality's Debt Relief monitoring plan (refer 3.4 above);

⁶ Excluding the March 2023 current Eskom account.

- 3.6 Include the **current number of indigent households registered** as such with the municipality (using the Municipal Budget and Reporting Regulations, 2009 Schedule A1 (Table A10) format (but only reflecting the indigent household information) and indicating additionally –
- i. What number of these households are on:
 - a) pre-paid electricity;
 - b) conventional meters; and
 - c) not metered currently;
 - ii. What number of these households' (that are not on pre-paid electricity) the municipality currently provides with electricity above the national free basic electricity limit of 50 kilowatt hours monthly (and whether households are billed for such);
 - iii. What number of these households are on:
 - a) pre-paid water;
 - b) conventional water meters; and
 - c) not metered currently.
 - iv. What number of these households' (that are not on pre-paid water) the municipality currently provides with water above the national free basic water limit of 6 kilolitre water monthly (and whether households are billed for such);
 - v. Whether the municipality provides any free basic water and/ or electricity to any household that is not registered as an indigent household with the municipality – if yes, the number of such households respectively receiving free water and free electricity;
- 3.7 Include the following information in relation to the municipality's **collection of revenue** – In relation to the quarter immediately preceding the municipality's application:
- 3.7.1 Total average quarterly collection of all revenue excluding Equitable Share and conditional grants;
 - 3.7.2 Total average quarterly collection of municipal property rates;
 - 3.7.3 Total average quarterly collection for each of the four main trading services (as may be applicable to that municipality);
 - 3.7.4 For each of the above the total average collection as well as a breakdown of the collection per ward should be shown;
 - 3.7.5 To clearly indicate in relation to each ward whether it receives its electricity supply in totality or partially from Eskom directly; and
- 3.8 The municipality must already have submitted its completed billing system, general valuation roll (GVR) and/ or interim GVR reconciliations to the National Treasury for the

quarter immediately preceding the application – if not, such needs to be immediately submitted and proof submitted as part of the application.

- 3.9 A template Council resolution included in **Annexure B** will suffice. The municipality may, however, utilize its own format subject to the application including the minimum required information. The municipality's written application together with the supporting information (including the council resolution) must be emailed to RevenueManagement@treasury.gov.za for the attention of Mr. Jan Hattingh – Chief Director: Local Government Budget Analysis.

4 Monitoring of Compliance

It is vital to effect a change in culture that a municipality's Eskom debt is written-off only after the municipality can demonstrate a change in its behaviour through meeting the set of conditions for 12 consecutive months in relation to each third (1/3) of its arrear debt. The National Treasury and relevant Provincial Treasury⁷ therefore must closely monitor the municipality's compliance with the conditions.

4.1 Municipal Debt Support – Conditions on the Provincial Treasury

4.1.1 The relevant Provincial Treasury, for the duration of the Municipal Debt Support programme, as part of the conditions of all delegated municipalities⁸ (refer paragraph 6.10), must demonstrate and adhere to the conditions for Provincial Treasuries set out in this paragraph 4.1.1 to 4.1.6 as a minimum.

4.1.2 Monitoring of and reporting in terms of the conditions of the Municipal Debt Support Programme –

4.1.2.1 With effect 01 April 2023, the relevant Provincial Treasury must closely monitor all delegated municipalities' adherence to the conditions for municipalities (set-out in paragraph 6.1 to 6.14; and

4.1.2.2 Monthly report to the Head of the Provincial Treasury and the National Treasury on each municipality's compliance against progress to facilitate compliance with the conditions by no later than 20 working days after the end of each month.

4.1.3 Head of Provincial Treasury certification of municipal compliance –

4.1.3.1 The Head of the Provincial Treasury must monthly certify the compliance of every delegated municipality with the conditions for municipalities in paragraph 6.1 to 6.14 as part of the Provincial Treasury's report in terms of 4.1.2 above to

⁷ Refer sections 5 and 74 of the MFMA.

the National Treasury by no later than 20 working days after the end of each month.

- 4.1.3.2 If a delegated municipality did not meet any condition during any month, the Provincial Treasury's certificate of compliance in terms of this paragraph must include as an attachment a report explaining the non-compliance and the progressive support measures instituted by both the provincial treasury and the municipality to facilitate the municipality's progressive adherence to the condition(s).
- 4.1.4 To facilitate the standardised monitoring across municipalities and provinces – the format of the certificate of compliance (refer 4.1.(3) above) in which the Head of the relevant Provincial Treasury must monthly certify the municipality's compliance with the conditions for municipalities (paragraph 6.1 to 6.14) is included in **Annexure A** to this Circular.
- 4.1.5 Going forward, the National Treasury may determine the format of the provincial treasuries' reports envisaged in 4.1.(2) above, however, in the interim the provincial treasuries may use their own format and discretion.
- 4.1.6 In the event that the relevant provincial treasury fails to rectify its non-compliance with any of the conditions set-out in paragraph 4.1.1 to 4.1.4 above, within one month of the non-compliance occurring, such non-compliance will be considered as non-compliance by the respective municipality(s) and the condition for municipalities set-out in paragraph 6.10.3 will apply.

5 Failure to comply with the conditions of Municipal Debt Relief and related initiatives

- 5.1 Municipalities are urged to maintain their behavioral change post the support. If a municipality fails to perform during the duration of the Municipal Debt Relief:
- a. The benefits of the Relief to that municipality will immediately cease;
 - b. This means that Eskom will be obliged to implement its credit control and debt management policy on the defaulting municipality and the municipality must immediately start repaying its Eskom arrears, interest and penalties;
 - c. Eskom may resume any legal proceedings (relating to the municipality's arrear debt, interest and penalties as of 31 March 2023), including attaching the municipal bank account; and
 - d. The normal penalties applicable to the wider local government will also apply.

⁸ Refer MFMA Circular No. 20.

- 5.2 It is important to note that the work to resolve non-payment by municipalities is progressive and that the National Treasury intends to enforce the existing penalties available in the legislative framework and add additional penalties, including exploring but not limited to –
- A take-over of a defaulting municipality’s electricity business;
 - NERSA strengthening of license conditions;
 - A National Treasury dispute resolution process;
 - Strengthening and adding consequences and related consequence management processes as part of the ongoing review of the MFMA, including to facilitate the upfront resolve of budget issues and to instill a payment culture; and
 - A wider special mechanism/ ombud system to facilitate organs of state payment and related disputes, including instituting consequences for organs of state failure to pay; etc.
- 5.3 In terms of the National Treasury’s local government revenue improvement programme, all municipalities that benefit from the Municipal Debt Relief will continue to receive support towards strengthening their revenue value chains.
- 5.4 Municipalities are cautioned that the National Treasury considers the conditions set out in paragraph 6.1 to 6.14 as critical financial management minimum best practise and confirms that if a municipality fails to meet any and/ or a combination of the conditions set out in this Municipal Debt Relief framework, it could (over-and-above the consequences set out in 5.1 above) constitute a serious breach of its financial management fiduciary responsibilities and may also constitute financial misconduct as envisaged in the MFMA⁹ and Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, 2014. The National Treasury reserves the right to **immediately** invoke section 216 of the Constitution and/ or any other remedies available to government in terms of the prevailing legislative framework in such a situation (including instituting individual financial misconduct and/ or criminal proceedings).

Re-application and municipal consequence management

- 5.5 Once the municipality applied for Municipal Debt Relief, if the municipality at any time does not comply with any or a combination of the conditions:

⁹ Municipalities are reminded of MFMA s.173 to the effect that the accounting officer of a municipality is guilty of an offence if that accounting officer, deliberately or in a gross negligent way contravenes or fails to comply with MFMA s. 65(2)(f). Moreover, MFMA s.174 provides for penalties, to the extent where a person is liable on conviction of an offence in terms of section 173 to imprisonment for a period not exceeding five years or to an appropriate fine determined in terms of applicable legislation.

- 5.5.1 The municipality's 12 consecutive months of compliance to the conditions will be interrupted;
- 5.5.2 The municipality may make a new application to the National Treasury. The municipality's new application (in addition to the requirements of paragraph 3. above), must –
- 5.5.2.1 provide detailed reason(s) as to why the municipality failed to meet the specific condition(s);
- 5.5.2.2 provide proof of the corrective measures and/ or disciplinary action the municipality already instituted to address this non-compliance to the conditions of Municipal Debt Relief;
- 5.5.2.3 provide the name(s) and position(s) of the person(s) responsible for the failure together with any other necessary information the National Treasury may require in terms of the Municipal Regulations on Financial Misconduct and Criminal Proceedings, 2014 to facilitate appropriate and relevant financial misconduct and/ or criminal proceedings;
- 5.5.2.4 provide information on how a recurrence of the failure will be prevented in future;
- 5.5.2.5 include a motivation from the relevant Provincial Treasury as to why the Provincial Treasury supports (or does not support) the municipality's new application; and
- 5.5.2.6 include any additional information as may be required by the National Treasury.

National Treasury's consideration of a new application for Municipal Debt Relief

- 5.6 The National Treasury will consider the municipality's new application on merit. **If approved, the National Treasury:**
- i. May make the municipality's continued participation subject to additional conditions in addition to those set-out in section 6. below; and
 - ii. The municipality's 12 consecutive months required compliance with the conditions for Municipal Debt Relief and any additional conditions will start running afresh.

Eskom application of Municipal Debt Relief

- 5.7 Once the municipality, to the satisfaction of the National Treasury, has complied with the conditions of the Municipal Debt Relief (refer to paragraph 6.1 to 6.14 below) for 12 consecutive months, the National Treasury will request Eskom the write-off of one third (1/3) of the municipality's arrear debt.

- 5.8 Once Eskom has written-off one third of this arrear debt it will remain written-off, irrespective of whether the municipality consequently fails to comply with any of the conditions for Municipal Debt Relief (same will apply to the 2nd and 3rd of the municipality's arrears once written-off). However, a municipality's continued participation will be affected and it must re-apply for Municipal Debt Relief following any non-compliance (refer to paragraph 4.1 and 4.2 above).

Failure to apply for Municipal Debt Relief

- 5.9 A municipality that is indebted to Eskom but fails to apply for this Relief will still be accumulating debt. The municipality, by not embracing the basic financial management best practise embodied in this Relief will (by not applying) confirm the municipality's choice of not doing anything about its financial problems. The municipality is cautioned that its failure is considered serious and amounts to a persistent breach of the financial management fiduciary duties embodied in the MFMA. The municipality could also face the potential risk of losing its electricity licence.

6 Conditions on Municipalities – Municipal Debt Relief

Reference to a municipality in these conditions must be read to also refer to and/ or include a municipal entity of that municipality, if applicable.

6.1 Municipality non-compliance:

- 6.1.1 The National Treasury will only request Eskom to write-off a municipality's arrear debt, if the municipality demonstrates to the National Treasury's satisfaction, that the municipality complied with paragraph 6.2 to 6.14 for a consecutive period of 12 months.
- 6.1.2 **Once the debt is written-off it remains written-off** – It is noted that ***irrespective of paragraph 6.2 to 6.14***, once Eskom has applied the annual third debt write-off to the municipality's arrear debt owed to Eskom (as at 31 March 2023), such arrear debt (or component thereof) remains fully settled to Eskom irrespective of the municipality's subsequent non-compliance with the conditions.

6.2 Application-based supported by Council's resolution –

- 6.2.1 Every municipality with arrear Eskom debt (as at 31 March 2023) (excluding the March 2023 current account) will be targeted subject to the municipality making a written application to the National Treasury (in the required format) to benefit from this relief package – the National Treasury will consider each application on merit.

- 6.2.2 A municipality does not qualify to benefit in terms of this relief if its written application is not supported by a Council resolution and does not include the minimum information as required in terms of this MFMA Circular.
- 6.2.3 If a municipality fails to meet any of the conditions set-out in paragraph 6.1 to 6.14 during any consecutive 12 month period, it must apply afresh to the National Treasury, including providing any additional information as may be required by the National Treasury and submit a new council resolution to continue benefitting in terms of this Municipal Debt Relief.
- 6.2.4 The municipality must submit the signed council resolution and minimum information envisaged in paragraph 6.2 to the National Treasury in PDF format via the GoMuni Upload Portal. The upload portal can be accessed on <https://lquploadportal.treasury.gov.za>.

Supporting evidence: The municipality's Council resolution (signed and aligning to paragraph 6.2) uploaded to the National Treasury's GoMuni Upload Portal.

6.3 Maintaining the Eskom bulk current account¹⁰ – (current account for the purpose of this exercise means the account for a single month's consumption¹¹):

- 6.3.1 The municipality must monthly pay and maintain its Eskom bulk current account within 30 days of receiving the relevant invoice (this applies to all municipalities, including metros);
- 6.3.2 The municipality must submit supporting evidence to the National Treasury and Eskom of the respective payment(s) within 1 day of making any such payment;
- 6.3.3 The municipality must submit the proof of payment to the National Treasury in PDF format via the GoMuni Upload Portal to substantiate that payment was made. The upload portal can be accessed on <https://lquploadportal.treasury.gov.za>; and
- 6.3.4 Importantly, the amount as per the proof of payment must reconcile to the amounts recorded on the financial system as per the *mSCOA* data string and the section 41(2) MFMA statement of Eskom.

Supporting evidence: The municipality's proof of payment to Eskom uploaded monthly to the National Treasury's GoMuni Upload Portal. The proof of payment reconciles to the amounts recorded in the municipality's financial system (as per *mSCOA* data string and the section 41(2) MFMA statement of Eskom).

¹⁰ MFMA Circular no. 49 issued in 2009 highlighted the management and payment of creditors, including: The accounting officer of a municipality is responsible for the management of the expenditure of the municipality (MFMA s.65). All money owing by the municipality must be paid within 30 days of receiving the relevant invoice or statement and the municipality must comply with its tax, levy, duty, pension, medical aid, audit fees and other compulsory commitments (MFMA s.65(2)(e) and (f)).

¹¹ Subject to the municipality meeting the conditions for Municipal Debt Relief, there will be no interest accumulating monthly on the arrears the municipality owed Eskom as on 31 March 2023.

6.4 A funded MTREF –

6.4.1 The municipality must table and adopt a funded MTREF aligning to the National Treasury's Budget Funding Guidelines¹² – <http://mfma.treasury.gov.za/Guidelines/Pages/Funding.aspx> with effect the tabling of the 2023/24 MTREF. The municipality must therefore make adequate provision for 'depreciation and asset impairment' and 'debt impairment' and must not budget for any operating deficit on the A1 Schedule (Table A4 – Budgeted Financial Performance) of the Municipal Budget and Reporting Regulations; and

If the municipality only collected 60 per cent of its revenue (including property rates) during the preceding 12 months, a realistic provision for debt impairment should align to 40 per cent of the 2023/24 MTREF revenue projections.

6.4.2 If the municipality's MTREF is not funded, it must table and adopt a credible Budget Funding Plan as part of the MTREF budget (refer item 9.3 of MFMA Budget Circular No. 122, 09 December 2022). The municipality's annual and monthly cashflow projections on the A1 Schedule (Table A7 Budgeted Cash Flows and Supporting Table SA 30 – Budgeted Monthly Cash Flows) of the Municipal Budget and Reporting Regulations must evidence the municipality's Budget Funding Plan strategy and seasonal trends.

Supporting evidence: The National Treasury and/ or provincial treasury funding compliance assessment confirms the municipality's relevant MTREF is funded and aligning to the National Treasury's Budget Funding Guidelines; and that the budgeted cash flows evidence the Budget Funding Plan strategy and seasonal trends.

6.5 **Cost reflective tariffs** – The municipality must include its completed tariff tool (refer MFMA Circular No. 98 and item 5.2 of MFMA Budget Circular No. 122) as part of the municipality's annual tabled and adopted MTREF submissions with effect the tabling of the 2023/24 MTREF.

Supporting evidence: The municipality's tabled and adopted MTREF submission(s) include the completed tariff tool (refer MFMA Circular No. 98).

*Towards facilitating a funded budget as required in terms of paragraph 6.4, the municipality must demonstrate through the National Treasury tariff tool that the municipality's tariffs recover what it costs the municipality to render the four main trading – and other services (relevant to the municipality). **If the tariff(s) for any service is not cost-reflective, the municipality should phase the cost-reflective tariff in over a period of 3 to 5 years. The budget narratives should include the municipality's strategy in this regard.***

¹² The National Treasury confirms that the requirement of a funded budget already implies that the municipality must manage all its creditors (particularly bulk water creditor(s)).

6.6 Electricity and water as collection tools – With effect from the tabling of the 2023/24 MTREF, the municipality must **demonstrate, through its by-laws and budget related policies** that:

- 6.6.1 The municipality monthly issues all consumers/ property owners with a consolidated municipal bill in terms of which all partial payments received are allocated in the following order of priority: firstly, to property rates, thereafter to water, wastewater, refuse removal and lastly to electricity;
- 6.6.2 The municipality is cutting electricity services and/ or blocking the purchasing of pre-paid electricity of any defaulting consumer/ property owner unless the defaulter already registered as an indigent consumer with the municipality;
- 6.6.3 The municipality is restricting and/ or interrupting the supply of water of any defaulting consumer/ property owner unless the defaulter already registered as an indigent consumer with the municipality; and

In terms of this condition the municipality must undertake such restriction/ interruption of water together with the municipal engineer(s) to ensure a minimum supply of wastewater.

- 6.6.4 If the defaulting consumer/ property owner is registered as an indigent consumer with the municipality, the monthly supply of electricity and water to that consumer/ property owner must be physically restricted to the monthly national basic free electricity- and water limits of 50 Kilowatt electricity and 6 Kilolitres water, respectively.

Supporting evidence: The National Treasury and/ or provincial treasury's related budget assessment confirms the municipality's relevant MTREF's related budget policies and by-laws demonstrate compliance with paragraph 6.6.

6.7 Maintain a minimum average quarterly collection of property rates and services charges –

- 6.7.1 The municipality must strictly enforce its credit control and debt management related policies and achieve a minimum of 80 per cent average quarterly collection of property rates and service charges with effect from 01 April 2023 and 85 per cent average quarterly collection with effect from 01 April 2024 during any quarter. Although the norm and standard for collection rate according to MFMA Circular No. 71 indicates a 95 per cent threshold, municipalities under the debt relief support will be exempted for the first two years from adhering to this norm;
- 6.7.2 If a municipality is unable to achieve the minimum average quarterly collection as per paragraph 6.7.1, it must demonstrate to the satisfaction of the National Treasury that –

- 6.7.2.1 The underperformance directly relates to Eskom supplied areas where the municipality does not have electricity as a collection tool and that the average quarterly collection of the municipality (excluding Eskom supplied areas) equals the required quarterly average collection set-out in paragraph 6.7.1;
- 6.7.2.2 The municipality for technical engineering reasons is unable to physically restrict and/ or limit the supply of water in the Eskom supplied area(s); and
- 6.7.2.3 The municipality before 01 February 2024 attempted to enter into a service delivery agreement with Eskom for purposes of municipal revenue collection in the Eskom supplied area(s) as envisaged in sections 76 to 78 of the Municipal Systems Act, 2000 and that such failed and the reason(s) for the failure.
- 6.7.3 Similar to Eskom, the municipality must progressively implement a regime of installation of smart pre-paid meters in the municipality supplied areas to improve its collection. Only then, on an individual case-by-case basis, may the municipality consider writing off the debt of its customers, within its normal credit control process.
- 6.7.4 Any new electricity connection installed in the demarcated area with effect the 2023/24 MTREF must be smart pre-paid meter.
- 6.7.5 The municipality's 2023/24, 2024/25 and 2025/26 tabled and adopted capital budgets and MFMA Section 71 statements to reflect the approach set out in 6.7.3 and 6.7.4.

A similar approach to Eskom will facilitate a similar approach to all electricity consumers irrespective of whether they are supplied by Eskom or a municipality.

Supporting evidence: The municipality's MFMA s.71 monthly and quarterly report(s) uploaded to the National Treasury local government database and reporting system (LGDRS) must demonstrate an 80 per cent average quarterly collection as per the municipality's financial system (as per mSCOA data string) with effect 01 April 2023 and 85 per cent with effect 01 April 2024. Although the norm and standard for collection rate according to MFMA Circular No. 71 indicates a 95 per cent threshold, municipalities under the debt relief support will be exempted for the first two years from this norm.

6.8 Completeness of the revenue base –

- 6.8.1 The municipality must demonstrate by completing the National Treasury property rates reconciliation tool that the municipality's billing system perfectly aligns to its Council approved General Valuation Roll (GVR) and/ or any subsequent supplementary GVR compiled by the registered municipal valuer and demonstrate the steps taken to correct the variances identified; and

- 6.8.2 The municipality must submit its completed billing system, GVR and/ or interim GVR reconciliations required in terms of paragraph 6.8.1 to the National Treasury

Supporting evidence: The municipality's reconciliation of its council approved GVR/ supplementary GVR to its financial billing system and demonstrate the steps taken to correct the variances identified must be uploaded quarterly to the National Treasury's GoMuni Upload.

6.9 Monitor and report on implementation –

- 6.9.1 **MFMA section 71 reporting** – the municipal council and senior management team must closely monitor and enforce accountability for the implementation of the municipality's funded budget and Budget Funding Plan where relevant;
- 6.9.2 Where progress is slow in terms of paragraph 6.8.3, the **active intervention must be evident** from the narratives supporting the municipality's monthly MFMA section 71 reporting and recorded on the financial system as per the *mSCOA* data string. The MFMA section 71 statement to include progress on the Budget Funding Plan where relevant;
- 6.9.3 **Municipalities with financial recovery plans (FRP)** – if the municipality has a FRP as envisaged in the prevailing local government legislative framework, it must monthly report its progress in implementing its FRP to the Provincial Executive;
- 6.9.4 A municipality that has an FRP, may only benefit from the Municipal Debt Support programme if, with effect from 01 April 2023, parallel to submitting its monthly FRP progress reports to the Provincial Executive, it also submits such FRP progress reports to the National Treasury: Municipal Financial Recovery Service (MFRS).

Where a municipality has a budget funding plan and/ or an FRP, all such will be considered in combination with the municipality's MFMA s.71 statement when assessing compliance to this condition.

Supporting evidence:

- (1) The municipality's MFMA s.71 monthly statement(s) uploaded to the National Treasury local government database and reporting system (LGDRS).
- (2) If the municipality has a budget funding plan, the MFMA s.71 monthly statement must include progress against the budget funding plan as part of the narrative component required for the MFMA s.71 statement as well as demonstrate progress (as per *mSCOA* data string) against the budget funding plan.
- (3) If the municipality has an FRP, such must monthly be submitted to the Provincial Executive and NT: MFRS.

6.10 Provincial Treasury certification of municipal compliance – in terms of section 5 and 74 of the MFMA, with effect from 01 April 2023, a delegated municipality¹³ may not benefit from Municipal Debt Relief:

- 6.10.1 unless the relevant Provincial Treasury monthly monitored the municipality's compliance in terms of these conditions;
- 6.10.2 unless the relevant Head of the relevant Provincial Treasury monthly certified the municipality's compliance to these conditions, to the National Treasury's satisfaction as envisaged in the **conditions for provincial treasuries** (refer paragraph 4.1.1 to 4.1.5 above); and
- 6.10.3 If the Provincial Treasury fails to rectify the provincial treasury's non-compliance with any of the **conditions for provincial treasuries** (refer paragraph 4.1.1 to 4.1.6 above) within one month of the non-compliance occurring, such non-compliance will be considered as non-compliance by the municipality in terms of paragraph 6.1.1.

Supporting evidence: The relevant Provincial Treasury: HOD's certification of the respective municipality's compliance to the conditions of this framework (in the format as may be required by the National Treasury) monthly uploaded to the National Treasury GoMuni portal.

6.11 Limitation on municipality borrowing powers¹⁴ – a municipality benefitting from Municipal Debt Relief is not allowed to borrow for a period of 3 consecutive municipal financial years from the date of its initial or any subsequent benefit in terms of this municipal debt support programme.

Supporting evidence: The National Treasury and/ or provincial treasury's related budget assessment and monthly MFMA s.71 assessment confirms the municipality's compliance with 6.11.

6.12 The municipality for the duration of the Municipal Debt Relief (to ensure proper management of resources):

- 6.12.1 must apportion and ring-fence in a sub-account to its primary bank account –
- (a) all electricity, water and sanitation revenue the municipality collects in any month; and
 - (b) the component of the Local Government Equitable Share (LGES) the municipality earmarked to provide free basic electricity, water and sanitation.
- 6.12.2 must monthly first apply the revenue in the sub-account (required per paragraph 6.12.1) to pay its current Eskom account and then secondly its bulk water current account before it may apply the revenue in the sub-account for any other purpose.

¹³ A municipality in terms of which the National Treasury delegated its MFMA oversight powers and functions to the relevant provincial treasury as set-out in MFMA Circular No. 20.

¹⁴ In terms of section 5 of the MFMA, particularly section 5(1)(c) read in conjunction with section 5(2)(d) to (f), etc.

Note: A request will be made to the Minister of Finance immediately succeeding the application to exempt municipalities formally from MFMA s.8(3) to facilitate this condition.

Supporting evidence: The municipality monthly submit a copy of the bank statement of its ring-fenced bank account to the National Treasury and provincial treasury aligning to its MFMA s.71 statement collected revenue.

- 6.13 **Accounting Treatment** – The municipality must fully account for and correctly report on the write-off of its Eskom arrear debt (debt existing as on 31 March 2023) as per the written instruction of the National Treasury: Office of the Accountant General – their formal guidance to follow.

Supporting evidence: The National Treasury, provincial treasury assessment and audit report indicates alignment to the OAG guidance.

- 6.14 **NERSA Licence – by applying for Municipal Debt Relief as set-out in paragraph 3**

The council of a municipality that during the duration of the Municipal Debt Relief programme fails to comply with any condition of the Relief, agrees to make an application to NERSA to voluntarily revoke the municipality's license in terms of section 18 of the Electricity Regulation Act, 2006 (Act no. 4 of 2006).

Supporting evidence: The municipality's Council resolution (signed and aligning to paragraph 3. and 6.2) uploaded to the National Treasury's GoMuni Upload

7 Active partnering of selected municipalities

Eskom will support selected municipalities with electricity pricing and electricity distribution losses and to determine the appropriate Notified Maximum Demand (NMD) threshold as part of the Minister of Finance conditions for Eskom in terms of section 2 of the Eskom Debt Relief Bill, 2023. The National Treasury will soon communicate with selected municipalities, the list of prerequisites and/ or information the municipality must provide to Eskom to facilitate Eskom's support to the municipality.

- 7.1 It is important that municipalities note that the **Eskom support envisaged** in terms of this paragraph is limited to Eskom's knowledge sharing and/ or technical advice. If any Eskom advice/ knowledge sharing in terms of this initiative requires a municipality to pay a fee or any cost to procure goods, services, or further support/ advice (including from Eskom), such procurement is subject to the Municipal Finance Management Act, 2003 (Chapter 11) and/ or the Municipal Supply Chain Management Regulations, 2005.
- 7.2 Eskom's support to municipalities in terms of this initiative to include:

- a. Fostering support with electricity pricing and the curbing of technical electricity distribution losses; and
 - b. **Only in relation to the municipalities selected for NMD support**, fostering support to facilitate that these municipalities determine their individual appropriate NMD threshold.
- 7.3 A municipality's participation in this support initiative is subject to:
- a. The municipality **making a formal written application to the National Treasury for Eskom's support on/ before 31 May of each year**; and
 - b. The municipality committing to align the timing of its annual tariff application to NERSA in consultation with the National Treasury to facilitate consideration of Eskom's advice.
- 7.4 The National Treasury will communicate to Eskom the successful applicant municipalities to be supported.

8 Budgeting for Municipal Debt Relief

Municipal Debt Relief is conditional as set-out above. Municipalities are therefore cautioned to budget conservatively and realistically for the related benefit. Only once the municipality has fully met all the Relief conditions for 12 consecutive months and the National Treasury instructed Eskom to write-off a third of the municipality's arrears, should the municipality consider that third of the benefit of Municipal Debt Relief as having materialised. The same applies when providing for the 2nd and 3rd thirds of the Municipal Debt Relief benefit.

9 Municipal Debt Relief Queries/ Clarification

Municipalities qualifying for Municipal Debt Relief are encouraged to apply as soon as possible to the National Treasury as set-out in this Circular. Any queries or clarification required may be directed to the Director: Local Government Budget Analysis: Revenue Section, Mr. Sadesh Ramjathan at Sadesh.Ramjathan@treasury.gov.za.

All uploads to the GoMuni Upload Portal must clearly be labelled using the demarcation code of the municipality, name of the municipality and nature of the document e.g. POP for Eskom for "month x", etc.

Contact



national treasury

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Post Private Bag X115, Pretoria 0001

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JH Hattingh

Chief Director: Local Government Budget Analysis

31 March 2023

**ANNEXURE A – PROVINCIAL TREASURY CERTIFICATE OF COMPLIANCE
(TEMPLATE)**

**ANNEXURE B – MUNICIPAL APPLICATION AND COUNCIL RESOLUTION
(TEMPLATE)**