

LEGAL IMPLICATIONS OF FAILURES IN HEALTH BUDGETING

ISSUES	CONSTITUTION	PFMA	NHA	PAJA
National and Provincial relationship and responsibilities	<ul style="list-style-type: none"> S 214 re DORA and allocation of resources; “Federalism” – Certification Judgment: basic values/principles governing public admin195 uniform norms, NT to enforce compliance 216(2) natnl legis to ‘maintain essential natnl stds ‘; ‘to establish min stds for rendering of service’ (44) ‘when a province cannot or does not fulfil an exec obligation, natnl exec may intervene’ by issuing directives or assuming responsibility (100) ‘natnl govt must assist provinces to develop admin capacity for effective functioning’125(3) natnl legis prevails to est norms & stds etc (146) co-operative govt (41) 	<ul style="list-style-type: none"> Duties of Nat Treasury: monitor implementation of prov budgets; promote and enforce transparency and effective management S6(1)(f) (g) 	<p>Objective of uniformity DG of Health MUST:</p> <ul style="list-style-type: none"> Issue guidelines for implementation of natnl health policy Issue norms & stds and promote adherence with them Co-ord health services rendered by natnl dept with those rendered by prov to est comprehensive natl health system Integrate natnl health plans with province health plans annually (21) (1) & (5) <p>National Health Council MUST advise MoH on:</p> <ul style="list-style-type: none"> Policies to protect and improve health of population Equitable financial mechisms for funding health care Obtaining and processing statistical returns 	
<p>Budgeting and Financial Management</p> <p>Evidence based budgeting;</p> <ul style="list-style-type: none"> Alignment: <ul style="list-style-type: none"> between National and Provincial priorities; between business plans and budgets; Adequate budgeting (Rotavirus vaccines – unfunded mandate); Proper planning, financial management and oversight by accounting officers and treasury’s (Free State example); OSD, e.g. – unfunded mandate Forecasting for ARV treatment Early Warning System. 	<ul style="list-style-type: none"> Budgets in each sphere of givt must contain proposals for financing any anticipated deficit 215 (3) S27 – reasonableness Efficient and effective public administration All constitutional obligations must be performed diligently and without delay 	<ul style="list-style-type: none"> Duties of NT: to monitor ; enforce prescribe stds of general acc practice assist depts. To build capacity for efficient, effective and transparent financial managemt may investigate any system of fin mangement ‘may do anything’ necessary to fulfil its reponsibilities Duties of PTs: Exactly same in respect of their sphere (18) S30/31 Adjustment budgets (unforeseeable and unavoidable expenditure) Duties of accounting officers (38/39): effective, efficient, transparent fin mangement of the dept responsible for ensuring that expenditure is in acc with vote of the dept (39) take effective and approp steps to prevent overspending report to exec authority and relevant treasury any shortfalls in budgeted revenue and overspending comply with remedial measures to prevent overspending <p>Non-compliance with above results in financial misconduct (81)</p>	<ul style="list-style-type: none"> S21 – DG DG is accounting officer at nat level Provincial Head of Health is accounting officer: Conditional grants need monitoring Natnl Dept must co-ord health information system incl at prov and district levels Provs and district councils MUST est health info systems District health plans (33) HR plans (chap 7, 25, 33) Promulgating NHA provisions Only ONE province has passed provincial health legis 	Cutting back due to poor budgeting is administrative action
<p>Moratorium and cutting back health services;</p> <ul style="list-style-type: none"> Early warning system 	<ul style="list-style-type: none"> Right to health (27), rights of children (28) Administrative justice (33) Access to information (32) 	<ul style="list-style-type: none"> S16 Min may authorize use of Emergency funds to defray expenditure of exceptional nature – NT S25 – Emergency funds – PT S6 – Avert crises IST predicts further moratoriums 	<ul style="list-style-type: none"> Duty of the MoH to ensure provision of essential health services (3) No one may be denied emergency medical treatment (5) Early warning system 	<ul style="list-style-type: none"> 1st “do no harm” S4: where admin action materially and adversely affects the rights of the public, there must be procedural and substantive fairness – detailed reqts; “Bato Star”; Cost saving measures, expert consultation, reasoning for cutting certain services over others, triaging plan to restore services (which includes Treasury)
Transparency and accountability	<ul style="list-style-type: none"> Natl, prov and municipal budgets must promote transparency, accountability, effective fin mangement (215) 	Money Bills Amendment Procedure and Related Matters Act, 2009 (77(3) of Constitution)		Communication, reasons