

# **NORTHERN CAPE ROVINCIAL GOVERNMENT**



## **OFFICE OF THE PREMIER**

### **IRREGULAR EXPENDITURE POLICY**

## **1. GENERAL**

This policy outlines the identification and treatment of irregular expenditure in the Office of The Premier according to the requirements of the PFMA

In terms of section [Sections 38(1)(a)l, (g) of the PFMA] and Treasury Regulation 9.1.1, the accounting officer of a department must exercise all reasonable care to prevent and detect irregular expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.

## **2. Irregular expenditure**

### **Definition**

Irregular expenditure comprises expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including:

- the Public Finance Management Act 1 of 1999 (as amended by Act 29 of 1999); and Treasury regulations;
- a National Treasury Instruction, issued in terms of section 76 of the PFMA;
- a Provincial Treasury Instruction issued in terms of section 18(2)(a) of the PFMA; or
- any other applicable legislation.

## **3. Objective**

The objectives of the policy include -

- emphasising the accountability of employees for the Department's resources;
- ensuring that employees have a clear and comprehensive understanding of the procedures they must follow;
- ensuring that resources made available to employees are utilised efficiently, effectively, economically and for authorised official purposes; and ensuring that the Department's resources are managed in compliance with the Public Finance Management Act, the Treasury Regulations and other relevant legislation;
- ensure that irregular expenditure is detected, processed and recorded timeously.

## **4. Procedures for the discovery, investigation and reporting of irregular expenditure**

### **4.1 Discovery of irregular expenditure**

(a) In terms of Treasury Regulations 9.1.2, an employee of the department who becomes aware of or suspects the occurrence of irregular expenditure must immediately, in writing, report such expenditure to the accounting officer.

(b) A register must be maintained recording the details of the transgression in the irregular expenditure register on discovery of any alleged irregular expenditure and ensure that the relevant supporting documentation are available for audit purposes.

#### **4.2. Enquiry or investigation into the alleged irregular expenditure**

(a) The accounting officer or accounting authority or his/her delegate must decide on the level of enquiry/investigation to be undertaken to determine whether:

(i) the expenditure in question meets the definition of irregular expenditure;

(ii) there is any official liable in law for the irregular expenditure;

(iii) the amount of the irregular expenditure resulted in any losses or damages suffered by the state; or

(iv) the state did not attain value for money from the transaction, condition or event.

(b) During the period of enquiry or investigation, the expenditure must remain in the expense account. The results of the enquiry or investigation will determine the appropriate action to be taken regarding the transgression.

#### **4.3. Confirmation and reporting of irregular expenditure**

(a) Should the enquiry or the investigation reveal that the expenditure does not constitute irregular expenditure, the details of the alleged irregular expenditure and the relevant supporting documentation to substantiate the finding should be retained in the register for purposes of completeness (and to provide for an appropriate audit trail). The register must also be updated to reflect the outcome of the enquiry or investigation.

(b) If the enquiry or investigation indicates that the expenditure is in fact irregular expenditure, the accounting officer must immediately report, in writing the particulars of the irregular expenditure to the relevant authority as indicated in the paragraphs below:

(i) report the irregular expenditure in terms of section 38(1)(g) of the PFMA to the relevant treasury;

(ii) report the irregular expenditure in the monthly report on revenue and expenditure in terms of section 40(4)(b) of the PFMA to the relevant treasury; and

(iii) report the irregular expenditure incurred by a department in contravention of tender procedures as required by Treasury Regulation 9.1.2 to the relevant procurement authority.

#### **5.. Procedures for raising a receivable (debtor) and the recovery of irregular expenditure**

Receivables comprise of amounts due to the state as a result of irregular expenditure resulting from losses or damages, or the sales of goods, the provision of services or the recovery of expenditure incurred by the state.

### **5.1 Recovery of irregular expenditure**

(a) The accounting officer must in terms of section 38(1)(c)(i) and 51(1)(b)(i) of the PFMA, take effective and appropriate steps to collect all money due to the institution, hence every effort must be taken to recover the irregular expenditure if the state has suffered a loss or a damage and that no value for money was attained by the institution from the transaction, condition or event.

(b) In terms of the Treasury Regulation 9.1.4, the recovery of losses or damages resulting from irregular expenditure of the department must be dealt with in accordance with Regulations 12.

### **5.2 Determination of an official liable in law**

(a) The accounting officer must determine who the responsible official is from whom the amount should be recovered and whether there were losses or damages suffered by the state.

(b) If an enquiry or investigation into the irregular expenditure confirms that there is an official liable in law for the irregular expenditure, the accounting officer must conduct a hearing based on the supporting documentation gathered during the enquiry or the investigation to provide the person alleged to have committed irregular expenditure with an opportunity to respond to the evidence tabled against him or her.

(c) Based on the outcome of the hearing referred to in paragraph 28.2 (b) above, the accounting officer or accounting authority will either:

- (i) raise a receivable (debt) for the recovery of the relevant amount of irregular expenditure resulting from losses or damages suffered by the state; or
- (ii) consider applying for condonation of the irregular expenditure from the relevant authority if it was found that no official is liable in law and that no losses or damages were suffered by the state;

### **5.3 Confirmation of a person liable in law**

(a) The accounting officer must in writing request that the responsible official pay the amount within 30 days or in reasonable instalments. If the official who is still in the employ of the institution denies liability, the accounting officer may refer the matter to the state attorney and the accounting authority may refer the matter to their in-house legal division for legal action, including the recovery of the debt.

(b) In line with the Treasury Regulation 12.7.2, if an official that was found to be liable in law for the irregular expenditure has left the employ of the department and the latter suffered a loss or damage as a result of the irregular expenditure will warrant for the accounting officer if considered economical, to refer the matter to the State Attorney for legal action, including the recovery of the debt.

(c) If the amount of the irregular expenditure is irrecoverable from an official who is liable in law and the state has suffered a loss or damage, the accounting officer may write off the debt in terms of Treasury Regulation 11.4.

(d) If the irregular expenditure that resulted in losses or damages to the state was incurred by the accounting officer or accounting authority, the relevant treasury will be the authority to condone the receivable that if it is discovered that it is irrecoverable.

#### **5.4 Irregular expenditure written off**

(a) The accounting officer or accounting authority may grant approval for the irregular expenditure to be de-recognised where no official was found liable in law and that such irregular expenditure was not condoned by the relevant authority.

(b) The relevant supporting documentation to substantiate actions and decisions taken by the accounting officer or accounting authority in terms of paragraph 5.4 (a) above must be available for audit purposes.

#### **6. Procedures for the condonation of irregular expenditure**

(a) As part of the enclosed procedures, provision is made for the accounting officer to forward submissions to the relevant authority to request condonation of irregular expenditure.

(b) Such condonation request referred to in paragraph 6(a) above will be submitted to the relevant authority if the enquiry/investigation reveals that no official is liable in law for the irregular expenditure and that the state did not suffer any loss or damage as a result of the irregular expenditure incurred.

(c) The relevant authority to which the submission must be forwarded to will depend on the provision of the PFMA or other relevant legislation that was contravened. Submissions requesting condonation of irregular expenditure must at least contain the following:

- (i) evidence indicating that the enquiry/investigation revealed that no official is liable in law for the irregular expenditure;
- (ii) detailed motivation as to why the irregular expenditure in question should be considered for condonation;
- (iii) details of the transgression;
- (iv) reference to relevant legislation;
- (v) reason(s) for deviating from the required legislation or prescripts;
- (vi) whether the state suffered any loss due to the transgression;
- (vii) in the case of supply chain management transgressions provide reasonableness of price(s) determined in a case where only one price was sourced from one bidder;
- (viii) financial implications for such a transgression;
- (ix) in the case of a supply chain management transgression provide contractor(s) who were involved;
- (x) corrective steps taken to prevent any recurrence; and
- (xi) the relevant supporting documentation.

(d) If the irregular expenditure is subsequently condoned, the register must be updated to reflect that the irregular expenditure was condoned, the notes to the annual financial statements must also be updated to reflect the condoned irregular expenditure and the relevant supporting documentation must be kept for audit purposes.

## EXAMPLES OF IRREGULAR EXPENDITURE

The table below provides examples of irregular expenditure and the relevant authority that is empowered to condone such expenditure: Categories of irregular expenditure Relevant Authority

Categories of irregular expenditure	Relevant Authority
Irregular expenditure incurred as a result of non-compliance with a Treasury Regulation where prior written approval was required from a <b>relevant treasury</b> . For example, expenditure incurred related to a public private partnership without obtaining the <b>prior written approval of the relevant treasury</b> , as required by Treasury Regulation 16.4.2.	<b>Provincial Treasury</b>
Irregular expenditure incurred as a result of non-compliance with a Treasury Regulation which required cognisance to be taken of a National Treasury determination. For example, a department, trading entity, constitutional institution or public entity procured goods or services by means of price quotations where the value of the purchase exceeded the threshold values <b>determined by the National Treasury</b> for price quotations. (Contravention of Treasury Regulation 16A6.1)	<b>The National Treasury</b>
Irregular expenditure incurred as a result of institutions procuring goods or services by means other than through competitive bids and where reasons for deviating from inviting competitive bids have not been recorded and approved by the functionary to whom the power has been delegated by the accounting officer or accounting authority. (Contravention of Treasury Regulation 16A6.4)	<b>The Accounting Officer.</b>
Irregular expenditure incurred as a result of non-compliance with a requirement of the department's delegations of authority issued in terms of the PFMA. For example: An official approves purchase of goods to the value of R35 000 however his limit in terms of delegation of authority is R30 000.	<b>The Accounting Officer</b>
Irregular expenditure incurred as a result of non-compliance with a provision contained in any applicable legislation. For example, a department grants performance rewards to personnel without maintaining and implementing a Performance Management and Development System, as required by Part VIII B of the Public Service Regulations).	The Department responsible for the legislation concerned and in the case of this example, the Department of Public Service

## **7. RECORDING OF IRREGULAR EXPENDITURE IN THE ANNUAL FINANCIAL STATEMENTS**

6.1 The accounting officer will ensure that the validity of irregular expenditure is confirmed before the annual financial statements are submitted for audit purposes. If irregular expenditure occurred during the year under review and is only discovered during the audit, the validity thereof must be confirmed before the audit is finalised. If an investigation is still in progress after the audit is completed then a narrative to this effect should be included in the irregular expenditure register.

6.2. All irregular expenditure incurred will be disclosed as a note to the annual financial statements which must include particulars of amounts condoned by the relevant authority in the same financial year and/or before finalisation of financial statements.

6.3. Irregular expenditure that was incurred and identified during the current financial year and which was condoned before year end and/or before finalisation of the financial statements must also be recorded appropriately in the irregular expenditure register. In such an instance, no further action is required with the exception of updating the note to the financial statements.

54. The accounting officer must quantify the total amount of irregular expenditure unless it is impractical to do so. When the institution can demonstrate that it is impractical to quantify the full amount, it should disclose this fact along with the reasons why.

## **8. Accounting treatment**

Recognition and measurement of irregular expenditure shall be treated in terms of latest available guidelines for the compilation of the Annual Financial Statements issued to by National Treasury to departments on an annual basis.