

# Northern Cape Provincial Government

## Office of the Premier



## Management of debt policy

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## 1. Declaration on intent

Section 38(1)(c)(i) of the PFMA places the responsibility of collecting all money due to the department in the hands of the Accounting Officer. The PFMA **section 45 (b) and (c) places the onus on** each employee within the department to ensure effective, efficient, **economical and transparent** use of financial and other resources within that employee's area of responsibility.

## 2. Objective

The objective of this policy is to provide departmental employees with a uniform guidance and approach on the management and control of debt owed to the department.

## 3. Terminology

For the purposes of this policy, the following definitions shall apply:

"Department"	: Office of the Premier
"Accounting Officer"	: Head of Department
"Chief Financial Officer"	: <b>The person designated to assist the Accounting Officer in discharging the duties prescribed in the PFMA and TR</b>
"Debt"	: Any amount of money owed to the State and/or anything when translated, has a monetary value, owed to the State

## 4. Scope of application

This policy is applicable to all employees/officials of the department. It is specifically applicable to employees who have a direct administrative duty to manage and control departmental debt, including the recovery and writing-off of debt owed to the department.

## 5. Governing Prescripts

Legislation

- Public Finance Management Act, Act No. 1 of 1999 (as amended by Act No. 29 of 1999)
- Treasury Regulations ( March 2005)

## 6. Guiding principles

Section 38(1)(c)(i) and (d) of the PFMA dictates the functions and responsibility of the accounting officer with regards to the management and control of debt in the department.

Treasury Regulations 11.2 and 11.3 states as follows:

- 11.2.1 “The account officer of an institution must take effective and appropriate steps to timeously collect all money due to the institution including, as necessary –
- (a) maintain proper accounts and records for all debtors, including amounts received in part payment; and
  - (b) refer matters to the State Attorney, where economical, to consider a legal demand and possible legal proceedings in a court of law.”
- 11.3.1 “Unless otherwise determined by law or agreement, debt owed to the state may, at the discretion of the Accounting Officer of the institution, be recovered in installments.”

## 7. Procedures

### 7.1 Debt types

Generically, the following types of debt may occur:

- (a) where the State has suffered a loss or damage through the act of an employee (whether that employee is still in the employ of the department or not), or any other person;
- (b) where a salary, wage or allowance was erroneously or unintentionally paid out to an employee;
- (c) where an individual, institution, entity, etc and/or company breached a contract;
- (d) where an erroneous or overpayment was made to a creditor, institution or private body;
- (e) where an advance is paid or expenditure incurred on behalf of an employee, and the employee default on payment(s);
- (f) **when fruitless and wasteful has been disclosed in the annual financial statements where the money should be recovered from an employee;**
- (g) **leave without pay recoveries;**
- (h) **tax debt recoveries after PERSAL tax recalculations; and**
- (i) **recoveries of housing state guarantees.**

### 7.2 Classification

With reference to Treasury Regulation 11.2.1 (a), debt must be recorded in the general ledger of the department as soon as it is discovered.

### **7.2.1 Simple Debt (Non-interest bearing debt)**

- (a) A simple debt is raised whenever a debt is non-interest bearing – refer to Government Notice No. 1410 of 2002;
- (b) Simple debts, in nature, are short-term debts and are normally settled within a relatively short period of time – usually within one year or as determined by the Accounting Officer of the department;
- (c) This debt is normally restricted to the recovery of money from departmental employees, and is prevalent in cases such as:
  - (i) Salary and related overpayments;
  - (ii) Outstanding subsistence and travel (S&T) advances; and
  - (iii) A debt which originates due to the actions of employees including and not limited to, leave without pay, arrear contribution, damage to official vehicles.
- (d) Debts are raised in the disallowance account of the department and recovered from the debtors, provided that the debtors have been notified in writing of the debt recovery strategy of the department. It is not compulsory for debtor statements to be produced.

### **7.2.2 Complex Debt (interest bearing)**

Complex debt is when debt accumulates as interest bearing debt (refer to Government Notice No. 1410 of 2002). Complex debt usually occurs in the following cases:

- Breach of contract
- Loan agreements;
- Debts which originate and accumulates due to evil intentions (mal-fides actions) of employees, private bodies, institution, other departments, etc.

With reference to complex debt – debtor statement must be produced and forwarded to the relevant debtors. The debtor must be given 30 days to settle the amount owed and interest, at a rate determined annually by the national Minister of Finance, must be levied on the outstanding amount. In the case of contractual agreement viz. bursaries – breach of contract, loan agreement, the interest rate stipulated in the contract must be levied.

## **7.3 Interest payable to the State**

The national Minister of Finance, in terms of section 80 of the PFMA and Treasury Regulation 11.5.1, must determine a uniform interest rate for different categories of debt, and must be published by notice in the national Government Gazette through the national Parliament.

## **7.4 Writing-off of debts owed to the State**

### **7.4.1 Legislation**

Chapter 11.4 of the Treasury regulations and sections 76(1)(e) and 76(4)(a) of the PFMA stipulates that the Accounting Officer of the department may only write-off debts owed to the State if he or she is satisfied that –

- (a) all reasonable steps have been taken to recover the debt and the debt is irrecoverable, or,
- (b) he or she is convince that –
  - recovery of the debt would be uneconomical;
  - recovery would cause undue hardship to the debtor or his or her dependants;
  - it would be to the advantage of the State to the effect a settlement of its claim or to waive the claim; or
  - the age-analyses aspect has been satisfactorily and convincingly communicated to him or her in order to make a decision to write-off debt or not.
  - **Where the debtor has emigrated and failed to settle the debt.**
- (c) Disclosure must be made in the annual financial statements, disclosing which debt was/is written-off, advised by the debt write-off policy.

### **7.4.2 Conditions for Writing-off a debt**

The department will consider the write-off of debts only in the following circumstances, additional to the above mentioned criteria.

- (a) debts not recovered from a deceased employee, where their estate(s) have been finalized, and recovery of debts from the heirs is not possible;
- (b) debts owed by the debtor that cannot be traced, notwithstanding compliance with the provisions as mentioned in the policy;
- (c) debts where no source documentation is available to substantiate or prove the claims, provided that the Accounting Officer must have satisfied him/herself that all reasonable material steps have been taken to locate the source documents;
- (d) debts whether the debtors have emigrated without paying the debts, leaving no assets available for execution and the debtors; whereabouts are not known;
- (e) debts owed by employees amounting to **R 10,000.00** or less, where the debtors are no longer employed by the State, provided that the provisions in 7.4.1 have been met; and
- (f) debts owing by any person or institution where the probability of recovery is remote and it is not in the department's interest to chase after such debt(s), which includes, but is not limited to circumstances where:

- the deceased was the breadwinner of a rural family who continued to receive payment of the deceased's salary after his/her death, and who have no means of repaying the debt;
- payments are received by persons other than the deceased's immediate family, and the identification of the debtor is not known; and
- no executor, administrator, liquidator or curator has been appointed.

Unless affordable arrangements can be made with tracing agents, the costs associated with the tracing of a debtor and subsequent legal costs, could exceed the amount in question to be claimed. It would therefore not be in the department's best interest to attempt recovery of debts where the prospect of recovery are remote, and where the possibility exists that the costs associated with the recovery may very well exceed the debt.

### **7.5 Delegated authority to write-off debt**

The Accounting Officer is delegated to write-off a debt owed to the department. Delegation per official by the Accounting Officer is as follows:

- **Director Finance** : R 10,000 and below
- **Chief Financial Officer** : R 10,001 to R 50,000
- **Accounting Officer** : R 50,001 and above

The Accounting Officer is delegated to write-off losses and damages and is further delegated to write-off losses and damages that result from major and other unavoidable causes.

### **7.6 Tracing of debtors**

In the event that a debtor's address is not known, the department must take all reasonable steps to trace the debtor. A reasonable effort to trace a debtor would include, but is not limited to the following:

- Utilizing all the information available in files of the department (such as personnel information, housing, leave etc.) to locate the debtor;
- Utilizing the telephone directory for the last town or city in which the debtor lived to locate the debtor and/or his/her relatives; and
- Contacting the following institutions or persons in order to locate the debtor:
  - The Department of Home Affairs;
  - The South African Revenue Services;
  - National Treasury, through the Pension Administration Section; and
  - Colleagues at the debtor's last place of employment.

The Accounting Officer shall consider all other economically viable avenues for debt recovery, including the use of tracing agents, factoring of debts, recourse against sureties or guarantors, etc.

Should all the above efforts prove to be unsuccessful and the debtor cannot be traced, only then must a submission be made to the Accounting Officer of the department, or a duly delegated senior officer, request the writing-off of the debt. The submission must detail all steps taken to trace the debtor and must show that it would be uneconomical to take the matter any further.

In terms of Treasury regulation 11.2.1, in cases where it is necessary and economical to enforce the recovery debt by means of legal action/steps, and after consultation with the Head: Legal Services of the department, the services of the State Attorney may be utilized. The physical address of a debtor must be available when matters involving the recovery of debt are referred to the State Attorney's office for collection/recovery of debt.

## **7.7 Management Reporting**

- (a) Management information must be provided to the Chief Financial Officer on a monthly basis concerning the status of all debtors of the department.
- (b) Any approval granted to write-off debt owed to the department, in terms of paragraphs 7.5 and 7.6 above, shall be reported to the Chief Financial Officer on a monthly basis.

## **8. Implementation**

- (a) This policy shall come into effect from date of approval.
- (b) Responsibility of the implementation of this policy rests with the Chief Financial Officer and for programme managers to support.

## **9. Endorsed by: Senior Management**