



**KWAZULU-NATAL PROVINCE**

**TREASURY**  
REPUBLIC OF SOUTH AFRICA

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**PROVINCIAL TREASURY**  
**STANDARD OPERATING PROCEDURE**  
**GUIDELINE**  
**ON**  
**IRREGULAR EXPENDITURE**

**Amended 31 March 2023**

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## **1. PURPOSE**

- 1.1 The purpose of this Provincial Treasury Standard Operating Procedure Guideline is to provide uniform processes and procedures on the management and control of Irregular Expenditure.
- 1.2 This Provincial Treasury Standard Operating Procedure Guideline must be read in conjunction with National Treasury Instruction No. 4 of 2022/2023: PFMA Compliance and Reporting Framework.

## **2. DEFINITIONS**

- 2.1 In this Provincial Treasury Standard Operating Procedure Guideline, unless the context indicates otherwise, a word or expression, to which a meaning has been assigned in the Public Finance Management Act, 1999 (Act 1 of 1999) and the National Treasury Regulations, has the same meaning and: -

*“Accounting Officer”* means a person mentioned in section 36 of the PFMA;

*“Accounting Authority”* means a person mentioned in section 49 of the PFMA;

*“Another Relevant Function”* means a function conducted by the Accounting Officer to perform a task related to Loss Control Management;

*“Assessment”* in terms of irregular expenditure means a test conducted by a Loss Control function or another relevant function to evaluate and confirm whether the transaction is irregular expenditure;

*“Budget Holder”* means the receiving institution making use of the mandated institution or another organ of state to procure goods and services;

*“CFO”* means the Chief Financial Officer referred to in paragraph 2.1 of the National Treasury Regulations and in respect of public entities, it means the Chief Financial Officer referred to in paragraph 27.3 of the National Treasury Regulations;

*“Condonation”* means a process whereby the relevant authority acknowledges the irregular expenditure and pardons the incurrance thereof;

*“Delegated official”* means an official who has been delegated powers or being instructed to perform any duties assigned by the Accounting Officer;

*“Determination”* means a formal assessment conducted by the Loss Control function or another relevant function to examine or analyse the particulars of confirmed irregular expenditure, or non-compliance in order to establish the facts, assess any allegations of criminal conduct and losses incurred as it relates to the transaction;

*“Institution”* means an institution to which the Act applies according to section 3 of the PFMA;

*“Investigation”* means a formal probe conducted by a function performing investigations to analyse the particulars of irregular expenditure, or non-compliance in order to establish the facts about the transaction related to any fraudulent, corrupt or criminal conduct;

*“Irregular Expenditure”* means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, the PFMA, the State Tender Board Act, 1968, or any regulations made in terms of the PFMA, or any provincial legislation providing for procurement procedures in provincial government;

*“Mandated institution”* means an institution procuring goods or services on behalf of the budget holder;

*“Non-compliance”* means the failure to comply with legal requirements;

*“PFMA”* means the Public Financial Management Act (Act 1 of 1999);

*“Relevant authority”* means:

- a) the Provincial Treasury, in the case where an employee or the Accounting Officer of a Provincial Department or an employee or the Accounting Authority of an entity listed in Schedule 3C or 3D to the PFMA, was responsible for the irregular expenditure;
- b) the Accounting Officer or Accounting Authority, in a case where an employee responsible for the non-compliance exercised a power or performed a duty through a delegation;
- c) the Accounting Authority, in a case where an employee of an entity listed in Schedules 3A or 3C to the PFMA, was responsible for exceeding the budget of that public entity;

*“Register”* means a list of irregular expenditure incurred and stating whether it is under assessment, determination or investigation and progress on historical irregular expenditure;

*“Removal”* means the process of eliminating the irregular expenditure from the register and annual report if it was not condoned by the relevant authority;

*“Standard Operating Procedure (SOP)”* means the method of functioning that has been established over time to execute a specific task or react to a specific set of circumstances or situation or process. Standard operating procedures document the normal or accepted methodology and help form the basis for evaluating conformance with the regularity framework; and

*“Treasury Regulations”* means the regulations issued by National Treasury in terms of Section 76 of the PFMA.

### **3. LEGISLATIVE FRAMEWORK**

- 3.1 In terms of the PFMA, the Accounting Officer must: -
- a) Prevent unauthorised, irregular, fruitless and wasteful expenditure and losses resulting from criminal conduct in terms of section 38(1)(c)(ii);
  - b) On discovery of any unauthorised, irregular, fruitless and wasteful expenditure, immediately report in writing, particulars of the expenditure to the relevant treasury and in the case of irregular expenditure involving the procurement of goods or services to the relevant Tender Board in terms of section 38(1)(g);
  - c) Take effective and appropriate disciplinary steps against any official in the service of the department who makes or permits an unauthorised, irregular, fruitless and wasteful expenditure in terms of section 38(1)(h)(iii).
- 3.2 In terms of National Treasury Regulations, the Accounting Officer must: -
- a) Exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.
- 3.3 This Provincial Treasury Standard Operating Procedure Guideline is issued in terms of Section 18(2)(i) of the PFMA.
- 3.4 In the event of any inconsistency between this Provincial Treasury Standard Operating Procedure Guideline and related government legislation, such legislation prevails.

### **4. IRREGULAR EXPENDITURE**

- 4.1 When an official of an institution discovers irregular expenditure, the official must immediately report in writing such expenditure to the Accounting Officer. In the case of a department and an entity such expenditure must be reported in the annual report, as required by section 40(3)(b) and 55(2)(b) of the PFMA. The annual report must include:
- a) Any particulars of any material losses through criminal conduct and any unauthorised, irregular, fruitless and wasteful expenditure that occurred during the financial year; and
  - b) Any criminal or disciplinary steps taken as a result of such losses, irregular, fruitless and wasteful expenditure.

- 4.2 When an Accounting Officer/Accounting Authority determines the appropriateness of disciplinary steps against an official in terms of section 38(1)(h) and 51(1)(e) of the PFMA, the Accounting Officer must take into account: -
- a) The circumstances of the transgression;
  - b) The extent of expenditure involved; and
  - c) The nature and seriousness of the transgression.
- 4.3 The recovery of losses or damages resulting from irregular expenditure must be dealt with in accordance with Treasury Regulation Chapter 12.
- 4.4 The amount of the irregular expenditure must be disclosed as a note to the annual financial statements of the institution.
- 4.5 Any amount written-off as irrecoverable in terms of Treasury Regulation 11.4 must be disclosed in the annual financial statements.

## **5. DESCRIPTION OF IRREGULAR EXPENDITURE**

- 5.1 Irregular Expenditure means expenditure, other than unauthorised expenditure, incurred in contravention of, or not in accordance with a requirement of any applicable legislation, including the PFMA, the State Tender Board Act, 1968, or any regulations made in terms of the PFMA, or any provincial legislation providing for procurement procedures in provincial government.

## **6. DISCOVERY OF IRREGULAR EXPENDITURE**

- 6.1 An employee who becomes aware of or suspects the occurrence of irregular expenditure should immediately report such expenditure, in writing, to the Accounting Officer or delegated official as per Treasury Regulation 9.1.2.
- 6.2 In the case of an entity, an employee who becomes aware or suspect the occurrence of irregular expenditure must immediately, in writing report such expenditure to the Accounting Authority or delegated official in accordance with the entity's reporting policies.

## **7. RECOGNITION OF IRREGULAR EXPENDITURE**

- 7.1 For determining whether irregular expenditure occurred, the following must be present:
- a) Expenditure incurred in contravention of, or not in accordance with legislation,
  - b) Expenditure must have been recognised in the financial records of the department/entity, in accordance with the relevant Accounting Framework.

## **7.2 Inter-Institutional Arrangement**

- 7.2.1 For the institution to be accountable for irregular expenditure, the budget holder must have-
- (i) Not complied with legislation; and
  - (ii) Incurred expenditure.
- 7.2.2 If the budget holder was not involved in the non-compliance with legislation because:
- a) it was not involved in the supply chain management (SCM) process even though it was required by legislation to make use of a mandated institution for the procurement of goods and services; or
  - b) it was excluded from participating in the bid specification, evaluation, and adjudication committee of the mandated institution even though required to be part of those bid committees; or
  - c) it could for justifiable reasons (such reasons must be in writing to the accounting officer/authority of the budget holder) not be represented in the specification, evaluation and adjudication committee of the mandated institution even though required to be part of the bid committee of the mandated institution.
- 7.2.3 In such instances referred to in paragraph 7.2.2 above, the budget holder must not record irregular expenditure in its annual financial statements disclosure and disclose only the non-compliance that led to the irregular expenditure in the annual report.
- 7.2.4 Where no binding arrangement exist between the budget holder and the mandated institution or other organ of state procuring on behalf of the budget holder, it is assumed that the budget holder is acting for itself and will incur irregular expenditure emanating from non-compliance with legislation.

## **8. ASSESSMENT OF IRREGULAR EXPENDITURE**

- 8.1 The Accounting Officer or Accounting Authority must identify the legislation applicable to each transaction that the department or entity undertakes.
- 8.2 The Loss Control or relevant function must conduct an assessment to identify possible non-compliance in transactions that are to be processed or have been processed and confirm whether irregular expenditure has been incurred or may be incurred.
- 8.3 If a transaction has been processed in contravention of legislation and the same transaction has a financial implication (payment was made or a liability was recognised in the books), it must be recorded as alleged irregular expenditure in the Irregular Expenditure Register

- (Annexure D). Details and amounts of the alleged irregular expenditure must be recorded in the register (Annexure D).
- 8.4 The Accounting Officer/Accounting Authority must confirm allegations into irregular expenditure within 30 days after the alleged irregular expenditure was reported to the Accounting Officer/Accounting Authority.
- 8.5 If there are disputes regarding whether the alleged irregular expenditure meets the definition of irregular expenditure, the assessment process must be conducted and completed within three (3) months from the date the alleged irregular expenditure was reported to the Accounting Officer/Accounting Authority.
- 8.6 Once confirmed that non-compliance does not constitute irregular expenditure, the Accounting Officer/Accounting Authority must –
- a) Strengthen the internal control environment where the non-compliance was identified and confirmed; and
  - b) Refer the non-compliance matter to the human resource management function to institute disciplinary processes against the official responsible for the non-compliance.

## **9. DETERMINATION OF IRREGULAR EXPENDITURE**

- 9.1 A determination test is conducted by the Loss Control or relevant function to examine and analyse the particulars of confirmed amounts of irregular expenditure to establish the facts and any losses related to the transaction and provide information on:
- a) Root causes that led to the transgression;
  - b) Employee(s) responsible for irregular expenditure;
  - c) Whether the department or entity suffered a loss;
  - d) Allegations of fraudulent, corrupt, or other criminal conduct; and
  - e) Any breakdown in internal controls.
- 9.2 The determination test must commence and be finalised within thirty (30) days after the assessment of irregular expenditure.
- 9.3 If there are any disputes, the determination process must be completed within four (4) months after confirmation of irregular expenditure
- 9.4 If the determination test confirms that an employee is responsible for irregular expenditure, the Accounting Officer/Accounting Authority must refer the matter to the human resource function or other responsible function to institute disciplinary process where applicable in accordance with the relevant prescripts.



## **10. INVESTIGATION OF IRREGULAR EXPENDITURE**

- 10.1 The Accounting Officer/Accounting Authority or delegated official must investigate suspected fraudulent, corrupt or other criminal conduct emanating from the incurrence of irregular expenditure, and refer such matters to a function performing investigations, to establish the facts about the allegations and obtain recommendations on the steps to be taken.
- 10.2 The investigation must commence within 30 days after the conclusion of the determination test of the irregular expenditure and must provide the Accounting Officer/accounting Authority with at least the following information:
- a) Root causes leading to the transgression;
  - b) Whether the institution suffered a loss;
  - c) The impact of the loss suffered by the institution;
  - d) Employee/s responsible for irregular expenditure;
  - e) Any breakdown in internal controls and the impact thereof;
  - f) Information on fraudulent, corrupt or criminal conduct; and
  - g) Whether the matter must be referred to the South African Police Service.

### **Referral where no losses were reported**

- 10.3 If the recommendations of the Loss Control or relevant function confirmed that no loss was incurred in contravention of legislation and that value for money was achieved, the Accounting Officer must refer the matter to the Human Resource Function to assist with disciplinary processes.
- 10.4 The Accounting Officer must refer the matter to the relevant authority for condonation of irregular expenditure where the transaction was not related to fraudulent, corrupt or other criminal conduct.
- 10.5 The Accounting Officer may consider the removal of irregular expenditure if the irregular expenditure was not condoned by the relevant authority.

### **Referral of Irregular Expenditure to the South African Police where fraudulent, corrupt or other criminal conduct was identified**

- 10.6 If an investigation confirms that the irregular expenditure is related to fraudulent, corrupt or other criminal conduct, the Accounting Officer must, within seven (7) days ensure that a criminal charge is laid with the South African Police Service against the responsible employee/s.

- 10.7 The Accounting Officer/Accounting Authority must also inform the relevant executive authority, the Provincial Treasury and Auditor General within seven (7) days after laying the criminal charge referred above.
- 10.8 Where criminal charges have been laid against the Accounting Officer/Authority, the executive authority through recommendation of the audit committee or another delegated official must inform Provincial Treasury and the Auditor General within seven (7) days after laying a criminal charge against the Accounting Officer/Authority.
- 10.9 The Irregular Expenditure Register (Annexure D) must be updated with all the details of fraudulent, corrupt, and other criminal conduct reported to the South African Police Service.

## **11. IMPRACTICABILITY JUDGEMENT**

- 11.1 A department/entity may apply judgement that it is impractical to quantify the full amount of irregular expenditure.
- 11.2 The Accounting Officer or Accounting Authority must take every reasonable step to demonstrate the impracticability when such judgement is reached including-
- a) Consideration of omissions or misstatements that could influence decisions of the users;
  - b) Use the impracticability judgement only in instances where-
    - i. it will be impossible to collect the data that was not collected at the time of the event or circumstance of the non-compliance; or
    - ii. it will be impossible to recreate or reproduce the data especially if such an exercise will result in additional costs, capacity and time or such documents were destroyed by fire etc.
- 11.3 A narrative to the annual report must be recorded in instances where quantification, assessment and determination of irregular is demonstrated to be impractical to disclose in the annual report.

## **12. CONDONEMENT/NON-CONDONEMENT OF IRREGULAR EXPENDITURE**

### **Condonation referred to Relevant Authority**

- 12.1 Irregular expenditure emanating from non-compliance with section 44 and or 56 of the PFMA must be considered condonation.
- 12.2 The relevant authority may, at the request of the Accounting Officer/Accounting Authority, condone the irregular expenditure.

- 12.3 The Accounting Officer/Accounting Authority must, as a minimum include the following information in a submission when requesting condonation of irregular expenditure:
- a) Confirmation that a determination test was conducted;
  - b) Findings and recommendations of the Loss Control or relevant function that conducted the determination test;
  - c) Confirmation that the matter is free of fraudulent, corrupt or other criminal conduct.
  - d) If the matter has fraudulent, corrupt or other criminal conduct confirmation of a case number showing that a case was opened with the South African Police Services;
  - e) Confirmation that no losses were incurred and value for money was achieved;
  - f) Confirmation that disciplinary action was taken or in the process of being taken against the responsible employee/s; and
  - g) Confirmation of remedial action taken by the Accounting Officer to prevent the recurrence of such irregular expenditure in similar circumstances.
- 12.4 All relevant supporting documentation must be attached to the submission for reference purposes.

**Irregular Expenditure Condoned**

- 12.5 If the irregular expenditure is subsequently condoned by the relevant authority, no further action is required.
- 12.6 The Irregular Expenditure Register (Annexure D) must be updated to reflect that the irregular expenditure was condoned.

**Irregular Expenditure Not Condoned**

- 12.7 If irregular expenditure is not condoned, and no person is liable in law (meaning a legal responsibility of a person's acts or omissions), the related expenditure must remain against the relevant expense account (programme/expenditure item).
- 12.8 No Journal is processed.
- 12.9 The Irregular Expenditure Register (Annexure D) must be updated accordingly.

**13 REMOVAL OF IRREGULAR EXPENDITURE**

**Referral to the Accounting Officer/Accounting Authority for removal**

- 13.1 The Accounting Officer/Accounting Authority may consider removing irregular expenditure that was not condoned by the relevant authority.

- 13.2 Removal of irregular expenditure may take place if the Accounting Officer/Accounting Authority is satisfied that the recommendations of the Loss Control or relevant function (in the case of a determination) and the function that conducted the investigation confirms that:
- a) The matter is free from fraudulent, corrupt or other criminal conduct;
  - b) If the matter has fraudulent, corrupt or other criminal conduct, confirmation of a case number showing that a case was opened with the South African Police Services (in such a case) the register must be updated (Annexure D).
  - c) Disciplinary action was taken against the responsible employee/s;
  - d) The department/entity did not suffer any loss;
  - e) The non-compliance that led to irregular expenditure has been addressed to ensure that such expenditure does not recur under similar circumstances; and
  - f) Transactions of a similar nature are regularly reviewed to ensure compliance with the relevant prescripts.
- 13.3 The Accounting Officer/Accounting Authority may proceed with the removal of irregular expenditure from the notes to the annual financial statements after confirmation of the processes indicated above.

#### **14 MANAGEMENT OF LOSSES: RECOVERY OF IRREGULAR EXPENDITURE** **(Refer to Process Flow for the recovery of Losses: Annexure C)**

- 14.1 When confirmed that irregular expenditure resulted in the department/entity suffering a loss, the Accounting Officer/Accounting Authority must recover such amount from those responsible which may include the Accounting Officer or members of Accounting Authority, then in such a case, the executive authority must recover the determined losses.
- 14.2 The matter must be referred to the loss control function or to another relevant function to initiate a process of recovery against the official responsible.
- 14.3 If the transaction did not arise as a result of fraudulent, corrupt or other criminal conduct, the Loss Control or relevant function must, in writing, inform the Accounting Officer/Accounting Authority to institute a claim against the responsible employee for the recovery of the loss.
- 14.4 If the irregular expenditure is not condoned **and a person is liable in law and a loss has occurred**, the Accounting Officer must take the appropriate disciplinary steps in terms of section 38(1)(h) of the PFMA to recover the amount in terms of National Treasury Regulations 12.7.

**Quantifying a Loss**

- 14.5 The debt/loss recoverable from the responsible employee/s may equate to: -
- a) the value of the loss incurred as a consequence of the actions leading to the irregular expenditure; or
  - b) a lesser amount determined by the Accounting Officer/Accounting Authority in accordance with the debt/loss management policy of the institution.
- 14.6 In the case where the Accounting Officer/Accounting Authority is responsible for the debt/loss, the Provincial Treasury must determine the value of the debt incurred as a consequence of the actions leading to the irregular expenditure; or a lesser amount.

**Raising a debt from the loss incurred**

- 14.7 If a debt arises from losses incurred because of irregular expenditure, it must be identified, reported and recorded in the departments/entity's books.
- 14.8 The Accounting Officer/Accounting Authority must request in writing that the responsible person pays the amount within 30 days or in reasonable instalments in terms of Treasury Regulation 11.3. This means the debtor is placed in "mora".
- 14.9 If the responsible employee/s denies liability for the debt, the matter must be referred to the State Attorney or in-house legal division to confirm the debtor's liability in law.
- 14.10 If the official has left the service of the institution the Accounting Officer/Accounting Authority must follow processes to recover the debt which may include engaging the State Attorney or debt management agencies on a no trace, no pay basis.
- 14.11 Interest on debts incurred from losses emanating from the incurrence of irregular expenditure must be charged at the rates determined in terms of Section 80(1)(b) of the PFMA or internal policy in a case of a public entity.
- 14.12 A debt must be registered on BAS as follows:
- Business; Debt; Agreement Maintenance; Transaction details; credit the relevant expenditure allocation (Vote)".*
- 14.13 Should it be determined that the debt is irrecoverable it may be written-off by the Accounting Officer, in terms of Treasury Regulation 11.4.
- 14.14 The debt must be amended on BAS as follows:
- "Business; Debt; Transaction maintenance; Amend status to Doubtful"*
- and once authorised the status will be amended to:
- "Bad debt", debiting "Thefts and Losses" and crediting "Debt Account: CA".*

- 14.15 If a debt was not registered on BAS, the loss must be recorded on the Loss Control System, by debiting "Thefts and Losses" and crediting the relevant expenditure allocation.
- 14.16 In the case of a public entity, the Accounting Authority may write off the loss in accordance with the debt write-off policy of the public entity.
- 14.17 All amounts written-off must be disclosed in the notes to the annual financial statements.

## **15 REPORTING OF IRREGULAR EXPENDITURE**

### **15.1 Reporting by the Accounting Officer**

- a) Reports on irregular expenditure referred to in section 38(1)(g) of the PFMA must be submitted quarterly to Provincial Treasury in the form set out in Annexure D to this SOP/Guideline;

<b>QUARTER</b>	<b>Due date of Submission</b>
Q1 : Ending 30 June	31 July
Q2: Ending 30 September	31 October
Q3: Ending 31 December	31 January
Q4: Ending 31 March	30 April

- b) Irregular expenditure that is confirmed must be disclosed in the annual financial statements of the department/entity, refer to paragraph 16.1 below;
- c) Irregular expenditure that is still under assessment, determination or investigations and the progress thereof must be recorded in the annual report as referred to in paragraph 16.2 below.

### **15.2 Reporting by the Accounting Authority**

- a) The Accounting Authority must report irregular expenditure quarterly to Provincial Treasury in a required timeframe and in the form set out in Annexure D to this SOP/Guideline;
- b) Irregular expenditure that is confirmed must be disclosed in the annual financial statements of the public entity;
- c) Irregular expenditure that is still under assessment, determination or investigations and the progress thereof must be recorded in the annual report.

**16 DISCLOSURE OF IRREGULAR EXPENDITURE****16.1 Reporting of irregular expenditure in the note to the annual financial statements**

- a) Irregular expenditure is recorded in the notes to the financial statements when confirmed after its assessment. The amount recorded is equal to the value of irregular expenditure incurred and confirmed in that current financial year unless it is impractical to determine, in which case reasons must be provided in the annual report.
- b) Disclosure of irregular expenditure in the annual financial statements is illustrated in the table below.

Notes to the Annual Financial Statements	20YY/20ZZ	20XX/20YY
	R'000	R'000
Irregular expenditure		
<b>Total</b>		

- c) Irregular expenditure includes:
  - i) Amount incurred and confirmed in that financial year; and/or
  - ii) Payments made as it relates to multi-year contracts.
- d) Irregular expenditure for the previous financial year includes:
  - i) amounts confirmed in that financial year;
  - ii) amounts that were under assessment in that financial year and confirmed in the current financial year; and
  - iii) amounts that were not identified and are identified and confirmed in the current financial year.

**16.2 Reporting of irregular expenditure in the annual report****16.2.1 It is reported either –**

- i) Under assessment, determination or investigation;
- ii) Condoned by the relevant authority; or
- iii) Transferred to receivables for recovery; or
- iv) Written off if it is not recoverable; or
- v) Not condoned and removed.

16.2.2 Annual report to reflect details of current and previous year disciplinary or criminal steps taken as a result of irregular expenditure.

16.2.3 The Annual Report Guide can be found on the National Treasury website-  
([https://oag.treasury.gov.za/Publications/20.Annual Report Guide](https://oag.treasury.gov.za/Publications/20.Annual%20Report%20Guide))

### **16.3 Additional disclosure relating to Inter-institutional arrangements**

16.3.1 Annual report to reflect details of non-compliance cases where an institution is involved in an inter-institutional arrangement where such institution is responsible for the non-compliance, and/or details of non-compliance cases where an institution is involved in an inter-institutional arrangement where such institution is not responsible for the non-compliance.

16.3.2 Inter-institutional arrangements as prescribed in paragraph 7.2.1 and 7.2.2 of this Standard Operating Procedure Guideline must be dealt with as follows –

- a) Irregular expenditure previously disclosed in the annual financial statements of the budget holder and not addressed must remain in the register and recorded in the annual report of the budget holder.
- b) Irregular expenditure previously disclosed in the annual financial statements of the mandated institution and not addressed must remain in the register and annual report of the mandated institution.
- c) Irregular expenditure disclosed in the annual financial statements of the budget holder or mandated institution in the previous financial year must be disclosed as a comparative amount in the annual financial statements.

## **17 PREVENTION AND DETECTION OF IRREGULAR EXPENDITURE**

17.1 The Accounting Officer must exercise all reasonable care to prevent and detect unauthorised, irregular and fruitless and wasteful expenditure, and must for this purpose implement effective efficient and transparent processes of financial and risk management, as per Treasury Regulation 9.1.1.

17.2 Financial and risk management measures should include but are not limited to:

- a) Development of Irregular Expenditure Checklists.
- b) The official approving expenditure must ensure that the checklist is completed and attached to the payment, prior to capturing and authorizing on BAS.
- c) Development of a compliance checklist for the various stages of procurement, inclusive of all legislative requirements, and attached to the final order.



- d) Strict application of financial management legislation and supply chain management policy and processes when procuring goods and services.
- e) Strict oversight over the annual budget and actual spending.
- f) Strict regulation of expenditure accounts where budget is exceeded.
- g) Ensuring funds are available prior to incurring expenditure.
- h) Reviewing monthly reports to determine if actual expenditure is likely to exceed budgeted expenditure.
- i) Determining any overspending in relation to both operational and capital budget.
- j) Performing weekly cash flow analysis to determine any variances.

## **18 FINANCIAL MISCONDUCT**

In terms of section 81(1) of the PFMA, an Accounting Officer: -

- a) For a department commits an act of financial misconduct if the Accounting Officer willfully or negligently: -
  - i. Fails to comply with a requirement of section 38, 39, and 40; or
  - ii. Makes or permits an unauthorised expenditure,-an irregular expenditure or a fruitless and wasteful expenditure.

### **18.1 Financial Misconduct by Officials**

18.1.1 In terms of section 81(2) of the PFMA, an official of a department, to whom a power or duty is assigned in terms of section 44 commits an act of financial misconduct if that official wilfully or negligently fails to exercise that power or perform that duty.

### **18.2 Investigation of alleged Financial Misconduct**

18.2.1 In terms of Sections 85(1) (b) (c) and (d) of the PFMA: -

- a) The Accounting Officer of an institution must conduct an investigation if an official is alleged to have committed financial misconduct. On confirmation a disciplinary hearing must be held in accordance with the relevant prescripts and agreements applicable in the public service.
- b) The Accounting Officer must ensure that an investigation is instituted within 30 days from the date of discovery of the alleged financial misconduct.
- c) If an Accounting Officer is alleged to have committed financial misconduct the Provincial Treasury, once aware of the alleged misconduct must ensure that the relevant executive authority initiates an investigation, and once confirmed, hold a

disciplinary hearing in accordance with the relevant prescripts and agreements applicable in the public service.

d) The Provincial Treasury may: -

- i. Direct that an official other than an employee of the institution conducts the investigation; and
- ii. Issue any reasonable requirement regarding the way in which the investigation should be performed.

### **18.3 Criminal Proceedings**

18.3.1 The Accounting Officer must advise the Executive Authority, Provincial Treasury and the Auditor-General of any criminal charges laid against any person in terms of Section 86 of the PFMA.

18.3.2 The Provincial Treasury may direct an institution to lay criminal charges against any person should an Accounting Officer fail to take appropriate action.

### **18.4 Offences and Penalties**

18.4.1 In terms of Section 86 of the PFMA: -

- a) An Accounting Officer is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years if that Accounting Officer wilfully and negligently failed to comply with a provision of Section 38, 39 or 40.

### **18.5 Reporting**

18.5.1 In terms of Section 85(1)(a) and (e) of the PFMA: -

- a) The Accounting Officer of a department must, once disciplinary proceedings are completed, report to the Executive Authority, the Department of Public Service and Administration and the Public Service Commission on the outcome, including: -
  - i. The name and rank of the official against whom proceedings were instituted;
  - ii. The charges, indicating the financial misconduct the official is alleged to have committed;
  - iii. The findings;
  - iv. Any sanction imposed on the official; and
  - v. Any further action to be taken against the official, including criminal charges or civil proceedings.

### **18.6 Recording of Financial Misconduct**

18.6.1 The Accounting Officer or delegated official must maintain a Financial Misconduct Register for Irregular Expenditure (Annexure E).

18.6.2 All cases of financial misconduct relating to irregular expenditure must be updated in the Financial Misconduct Register for record and audit purposes.

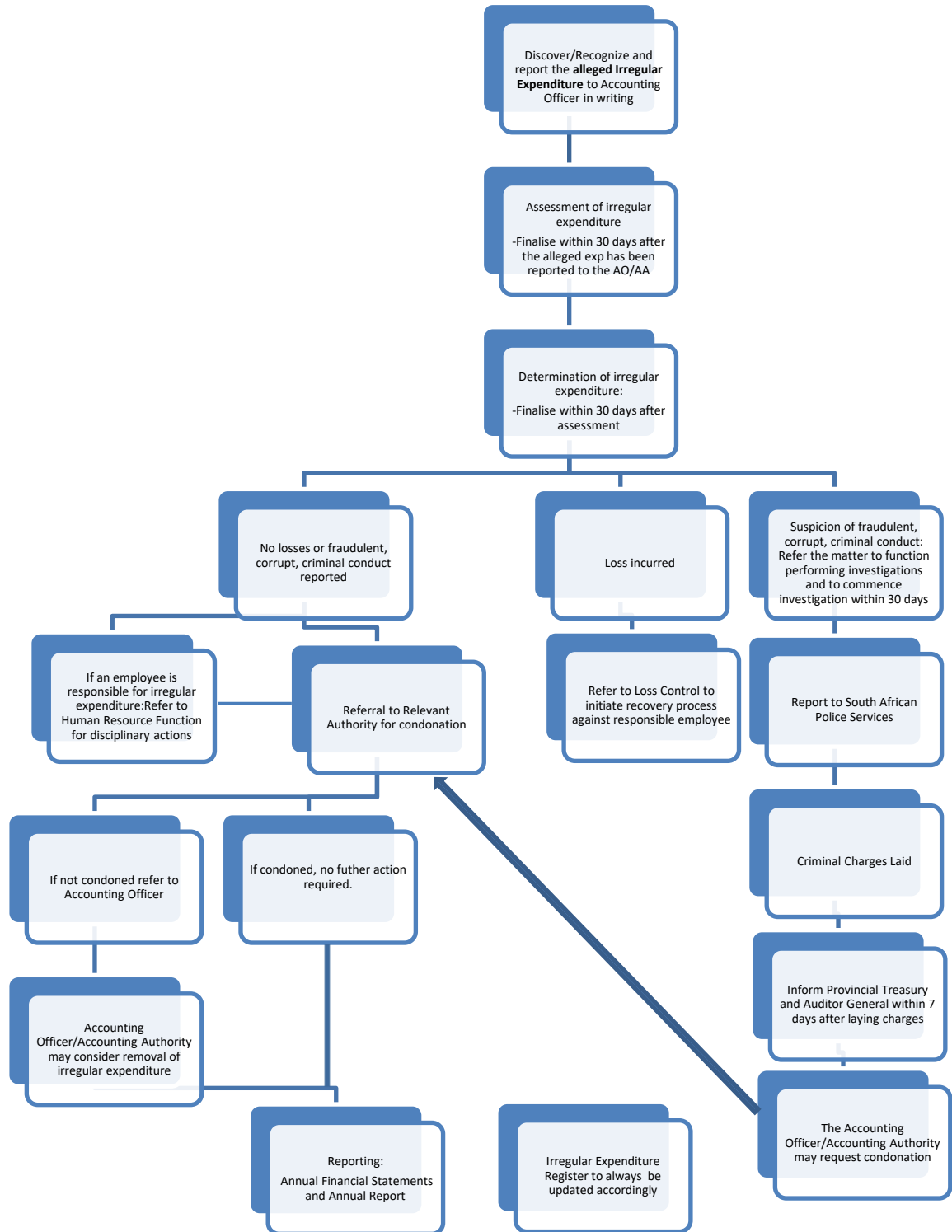
## **19 COMPLIANCE CHECKLIST**

19.1 Compliance checklists ensure consistency in application of procedural requirements and financial norms and standards and facilitate compliance monitoring with regulatory requirements, policy and procedural frameworks.

19.2 The compliance checklist, attached as Annexure F, should be implemented or adapted, where applicable, to support departmental/entity's requirements.

# ANNEXURE A

## PROCESS FLOW: IRREGULAR EXPENDITURE



## ANNEXURE B

ACCOUNTING FRAMEWORK FOR IRREGULAR EXPENDITURE	
DESCRIPTION	TRANSACTION
<b>Current Financial Year – Books Open</b>	
Irregular Expenditure incurred and identified and <b><i>waiting condonement at year end.</i></b>	<ul style="list-style-type: none"> <li>- A journal entry is not required.</li> <li>- Current irregular expenditure to be disclosed as a note to the Annual Financial Statements.</li> <li>- Ensure that the Irregular Expenditure Register is updated accordingly.</li> </ul>
Irregular Expenditure incurred and identified and <b><i>is condoned before year end.</i></b>	<ul style="list-style-type: none"> <li>- A journal entry is not required.</li> <li>- Current irregular expenditure to be disclosed as a note to the Annual Financial Statements.</li> <li>- Disclose condonation of irregular expenditure in the Annual Report.</li> <li>- Ensure that the Irregular Expenditure Register is updated accordingly.</li> </ul>
Irregular Expenditure incurred and identified that <b><i>is not condoned.</i></b>	<ul style="list-style-type: none"> <li>- Loss incurred: must be recovered once responsibility has been determined.</li> <li>- A debt must be taken on BAS as follows: <ul style="list-style-type: none"> <li>- <i>“Business; Debt; Agreement Maintenance; Transaction details;</i></li> </ul> </li> </ul> <p>Debit: Debt Account: CA</p>

ACCOUNTING FRAMEWORK FOR IRREGULAR EXPENDITURE	
DESCRIPTION	TRANSACTION
	<p>Credit: Relevant expenditure allocation (Vote).</p> <ul style="list-style-type: none"> <li>- Should the irregular expenditure be found to be irrecoverable it may be written off by the Accounting Officer in terms of Treasury Regulation 11.4.</li> <li>- The debts must be modified as follows: <ul style="list-style-type: none"> <li>- <i>“Business; Debt; Transaction Maintenance; Amend status to ‘Doubtful’ and once authorised the status will be amended to ‘Bad debt’”</i></li> </ul> </li> </ul> <p>Debit: Thefts and Losses Credit: Debt Account: CA</p> <ul style="list-style-type: none"> <li>- Details of irregular expenditure written off to be recorded in the Annual Report</li> <li>- Update Irregular Expenditure Register</li> </ul>
<b>Prior Financial Year – Books Closed</b>	
Irregular expenditure incurred in the prior financial year and condoned in the following year.	<ul style="list-style-type: none"> <li>- A journal entry is not required.</li> <li>- Disclose condonation of irregular expenditure in the Annual Report</li> <li>- Ensure that the Irregular Expenditure Register is updated accordingly.</li> </ul>
Irregular expenditure incurred in prior year and not condoned in the following year.	<ul style="list-style-type: none"> <li>- Details of irregular expenditure not condoned to be recorded in the Annual Report</li> </ul>

ACCOUNTING FRAMEWORK FOR IRREGULAR EXPENDITURE	
DESCRIPTION	TRANSACTION
	<ul style="list-style-type: none"> <li>- Loss incurred: amount must be recovered from the responsible person once responsibility has been determined.</li> <li>- A debt must be registered on BAS as follows: <ul style="list-style-type: none"> <li>- <i>“Business; Debt; Agreement Maintenance; Transaction details;</i></li> </ul> <p>Debit: Debt Account: CA Credit: Recoverable Revenue (Previous financial year).</p> </li> <li>- Should IE be found to be irrecoverable it may be written off by the Accounting Officer in terms of Treasury Regulation 11.4</li> <li>- The debt must be modified on BAS as follows: <ul style="list-style-type: none"> <li>- <i>“Business; Debt; Transaction Maintenance; Amend status to “Doubtful” and once authorised the status will be amended to “Bad debt”</i></li> </ul> <p>Debit: Thefts and Losses Credit: Debt Account: CA</p> </li> <li>- Details of irregular expenditure written off to be recorded in the Annual Report</li> <li>- Update Irregular Expenditure Register</li> </ul>

### ACCOUNTING FRAMEWORK FOR IRREGULAR EXPENDITURE

#### DESCRIPTION

- In the case of an entity, activities listed above must be in accordance with the classifications of an applicable accounting system.

#### TRANSACTION

NO.	Description	Transgression took place in the <u>current</u> financial year	Transgression took place in <u>previous</u> financial year
<b>ADDRESSING IRREGULAR EXPENDITURE</b>			
<b><i>Losses incurred and irrecoverable</i></b>			
1.	Losses were incurred and the State did not achieve value for money.	<ul style="list-style-type: none"> <li>▪ Determine amount/s of the losses to be recovered and recover in the current financial year (if practical).</li> <li>▪ Disclose amount/s of losses recovered in the Annual Report.</li> <li>▪ If it can be demonstrated that it is impractical to determine total losses incurred, disclose the details and reasons as to why the amount cannot be quantified.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Determine amount/s of the losses to be recovered and recover in the current financial year (if practical).</li> <li>▪ Disclose amount/s of losses recovered in the Annual Report.</li> <li>▪ If it can be demonstrated that it is impractical to determine total losses incurred, disclose the details and reasons as to why the amount cannot be quantified.</li> </ul>

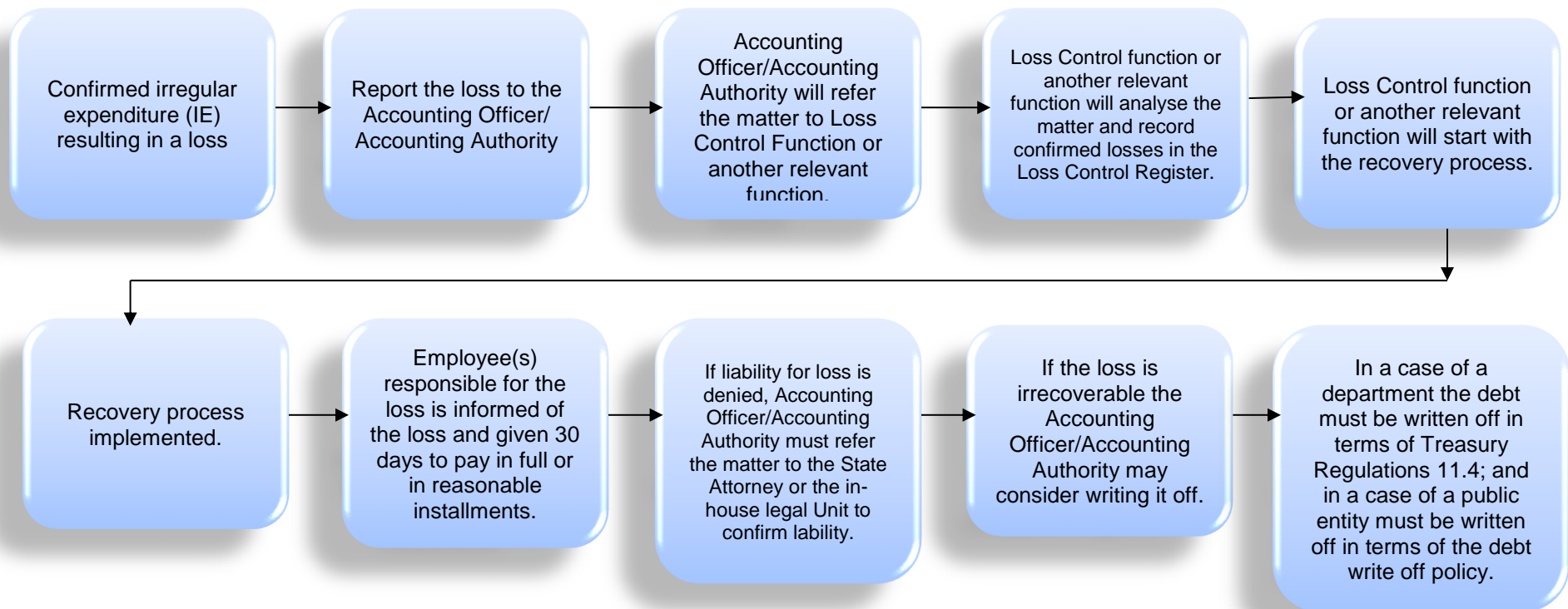


NO.	Description	Transgression took place in the <u>current</u> financial year	Transgression took place in <u>previous</u> financial year
2.	Losses incurred are irrecoverable	<ul style="list-style-type: none"> <li>▪ Determine amount/s of losses that are irrecoverable and consider writing off such amount/s in terms of Treasury Regulation 11.4.1(a) and (b).</li> <li>▪ Disclose amount/s of losses irrecoverable/written off in the annual report</li> </ul>	<ul style="list-style-type: none"> <li>▪ Determine amount/s of losses that are irrecoverable from the date the irregular expenditure was incurred to the end of the reporting period and consider writing off such amount/s in terms of Treasury Regulation 11.4.1(a) and (b).</li> <li>▪ Disclose amount/s of losses irrecoverable/written off in the annual report</li> </ul>
<b><i>Condonation Of Irregular Expenditure</i></b>			
3.	<ul style="list-style-type: none"> <li>▪ Losses were not incurred and value for money was achieved and the transgression was free of fraudulent, corrupt or other criminal conduct, request condonation of irregular expenditure.</li> <li>▪ If amount/s of irregular expenditure are condoned by the relevant authority, disclose in the Annual Report under column</li> </ul>	<ul style="list-style-type: none"> <li>▪ Disclose amount/s in the annual report</li> </ul>	<ul style="list-style-type: none"> <li>▪ Disclose amount/s in the annual report</li> </ul>

NO.	Description	Transgression took place in the <u>current</u> financial year	Transgression took place in <u>previous</u> financial year
	for current financial year and previous financial year.		
4.	<ul style="list-style-type: none"> <li>Irregular expenditure was not condoned by the relevant authority.</li> </ul>	<ul style="list-style-type: none"> <li>Refer the irregular expenditure to the Accounting Officer for removal.</li> <li>Disclose amount/s of losses irrecoverable in the annual report as irregular expenditure written off</li> </ul>	<ul style="list-style-type: none"> <li>Refer the irregular expenditure to the Accounting Officer for removal.</li> <li>Disclose amount/s of losses irrecoverable in the annual report as irregular expenditure written off</li> </ul>
<b><i>Criminal Proceedings</i></b>			
5.	Fraudulent, corrupt or other criminal conduct is alleged or confirmed.	<ul style="list-style-type: none"> <li>Follow the relevant steps required in terms of Treasury Regulations 4, 9 and 12.</li> <li>Report in terms of section 34 of the Prevention and Combating of Corrupt Activities Act.</li> <li>Include supplementary disclosure on criminal proceedings instituted.</li> </ul>	<ul style="list-style-type: none"> <li>Follow the relevant steps required in terms of Treasury Regulations 4, 9 and 12.</li> <li>Report in terms of section 34 of the Prevention and Combating of Corrupt Activities Act.</li> <li>Include supplementary disclosure on criminal proceedings instituted.</li> </ul>

## ANNEXURE C

## PROCESS FLOW FOR THE RECOVERY OF LOSSES



# ANNEXURE D

## IRREGULAR EXPENDITURE REGISTER

Total Amount of Irregular Expenditure				Total Amount								
Total amount of irregular expenditure				-								
Total irregular expenditure condoned				-								
Total irregular expenditure removed				-								
Total losses recovered				-								
Total losses written off				-								
Report number and date e.g., 4th report of 2022/2023	Date Incurred	Date Identified	Date reported to the AO/AA	Amount of Irregular expenditure	Status (under assessment, determination, investigation)	Amount of losses recovered	Amount of losses written off	Irregular Expenditure due to fraudulent, corrupt or other criminal conduct reported to SAPS	Consequence Management	Irregular Expenditure condoned by the relevant authority	Irregular Expenditure removed by the AO/AA	Steps taken to prevent irregular expenditure

A separate register must be kept and maintained for historical irregular expenditure incurred in previous financial years and not addressed.

## ANNEXURE E

## FINANCIAL MISCONDUCT REGISTER - IRREGULAR EXPENDITURE

Transaction No	Date the alleged expenditure reported	Details of the alleged expenditure	Date of Determination or Investigation began	The name and rank of the responsible employee for UE, IE or FWE	The charges, indicating the financial misconduct the employee is alleged to have committed	Information on the amounts of UE\IE or FWE for each case;	Information on the amounts recovered for each case, if applicable;	Information on irrecoverable amounts to be written off (if applicable	Disciplinary steps to be initiated against the employee	Outcome

**ANNEXURE F**

**COMPLIANCE CHECKLIST**  
**IRREGULAR EXPENDITURE**

<b>PROCESS</b>		<b>Y/N</b>	<b>REMEDIAL ACTION</b>
<b>IRREGULAR EXPENDITURE</b>			
1.	Established processes to prevent and detect irregular expenditure.		
2.	Discovery of irregular expenditure reported to Accounting Officer/ Accounting Authority and Provincial Treasury.		
3.	Established processes for assessment, determination and investigation of irregular expenditure.		
4.	Details of irregular expenditure recorded in the Irregular Expenditure Register.		
5.	Supporting documentation retained for audit purposes.		
6.	Established processes for condonement of irregular expenditure.		
7.	Irregular expenditure disclosed as a note to the financial statements.		
8.	Losses suffered recovered from responsible official.		