



Reference: T7/2/1

TREASURY CIRCULAR NO. 20/2015

THE PREMIER

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THE MINISTER OF COMMUNITY SAFETY
THE MINISTER OF CULTURAL AFFAIRS AND SPORT
THE MINISTER OF EDUCATION
THE MINISTER OF FINANCE
THE MINISTER OF HEALTH
THE MINISTER OF HUMAN SETTLEMENTS
THE MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING
THE MINISTER OF SOCIAL DEVELOPMENT
THE MINISTER OF TRANSPORT AND PUBLIC WORKS

THE SPEAKER: PROVINCIAL PARLIAMENT
THE DEPUTY SPEAKER: PROVINCIAL PARLIAMENT

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 MASTER RECORDS OFFICIAL: BUSINESS INFORMATION AND DATA MANAGEMENT
 THE DEPUTY DIRECTOR-GENERAL: CORPORATE ASSURANCE, DEPARTMENT OF THE PREMIER (MS H ROBSON)

UPDATED GUIDELINE ON IRREGULAR EXPENDITURE: APRIL 2015

PURPOSE

1. The purpose of this circular is to inform Accounting Officers, Accounting Authorities and Chief Financial Officers of departments and entities of the Updated Guideline on Irregular Expenditure which must be read in conjunction with Practice Note 4 of 2008/09 as issued by National Treasury (see Annexure A).
2. This circular replaces Treasury Circular 39 of 2008/09 in its entirety.
3. The Updated Guideline is effective as from 1 April 2015.

BACKGROUND

4. The National Treasury: Office of the Accountant-General issued Practice Note 4 of 2008/09 on the treatment of Irregular Expenditure that serves as the basis for the Updated Guideline on Irregular Expenditure (see Annexure B).

5. Also included is a “Crosswalk to amendments of the Irregular Expenditure Guideline” that provides a comparison of the 2014 and 2015 Guidelines as well as a rationale for changes made (see Annexure C).

IMPLICATION OF CHANGES

6. Cognisance should be taken of the significant changes made in the Updated Guideline on Irregular Expenditure. It must be emphasised that public and trading entities have now been comprehensively covered in the Guideline.
 - 6.1 Overspending by public entities listed in Schedules 3A and 3C to the PFMA must be recognised as irregular expenditure and disclosed as such in the relevant note (see paragraph 20 - 22).
 - 6.2 The removal of irregular expenditure from the balance reported in the AFS has been clarified as follows (see paragraph 24):
 - (a) Condoned by the relevant authority if no official was found to be liable in law;
 - (b) Recovered from an official liable in law;
 - (c) Written-off if it is irrecoverable from an official liable in law; or
 - (d) Written-off if it is not condoned and not recoverable.
 - 6.3 If it is confirmed that the investigated expenditure is an irregular expenditure transaction, the accounting officer should report it in writing to the relevant authority as follows (see paragraph 27.3):
 - (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.
 - 6.4 Public entities are required to disclose any criminal or disciplinary steps taken as a result of irregular expenditure in their annual financial statements (see paragraph 27.3).

- 6.5 Irregular expenditure that occurs in tender procedures should also be reported to the relevant procurement authority in terms of Treasury Regulation 9.1.2 (see paragraph 27.3).
- 6.6 The accounting officer or accounting authority must first determine whether an official is found liable in law before the debt can be recovered (see paragraph 28.2).
- 6.7 If an official is found to be liable in law for the irregular expenditure, upon an investigation, a hearing must be conducted. The Accounting Officer should request, in writing, an official who is found liable in law to pay the amount of the irregular expenditure within 30 days or in reasonable instalments (see paragraph 28.3).
- 6.8 The matter may be referred to the State Attorney if the official liable in law is no longer in the service of the State in order to recover the irregular expenditure (see paragraph 28.3).
- 6.9 If the debt cannot be recovered from the official who is liable in law, such debt may be written-off by the Accounting Officer (see paragraph 28.3).
- 6.10 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. The relevant supporting documentation should be available for audit purposes (see paragraph 28.4).
- 6.11 Accounting officers and accounting authorities are encouraged to conclude their investigations of irregular expenditure cases within 30 days and it is no longer 90 days as in the original guideline (see paragraph 46). If the investigation exceeds 30 days, reasons should be provided in a narrative to the Irregular Expenditure register.
- 6.12 In terms of Treasury Regulation 12.5.1, irregular expenditure from fraudulent, corrupt and/or criminal activities from which the state suffered a loss or damage and did not obtain value, such irregular expenditure should be reported to the South African Police Service, in writing by the Accounting Officer (see paragraph 52).
- 6.13 In paragraphs 57 – 61.4 Guidance is provided on the responsible party to record and report on irregular expenditure when there is a client and agent relationship.
- 6.14 Annexure A covers the Status of the Tender Board Act of 1968 which will be applicable to the irregular expenditure in the procurement of goods and services.

- 6.15 Annexure B provides the step by step treatment of irregular expenditure that has been expanded to distinguish between when “a loss was incurred” and “when “a loss was not incurred”.
- 6.16 In Annexure C the accounting of Irregular expenditure is covered based on the process in the four main steps.
- 6.17 Annexures D and E on the treatment of irregular expenditure by departments and entities respectively, have remained the same.
- 6.18 In Annexure F, which provides a template for the Register of Irregular Expenditure, the following status indicators have been added:
- CO – Condoned by the relevant authority
 - NCO – Not condoned by the relevant authority
 - WO – Written-off against savings
- 6.19 The System used for the administration and reporting on irregular expenditure will be aligned to support the requirements of the updated Guideline.

REQUIRED

7. Departments and entities are required to adhere to the requirements of the Updated Guideline on Irregular Expenditure: April 2015, effective from 1 April 2015.
8. Departments and Entities are to note that the May 2014 Guideline on Irregular Expenditure remains effective until 31 March 2015.
9. Departments and Entities are required to maintain an Irregular Expenditure Register in which all details and progress are recorded.



MR A HARDIEN
PROVINCIAL ACCOUNTANT-GENERAL

DATE: 01 May 2015

PROVINSIALE TESOURIE • PROVINCIAL TREASURY •
UNONDYEBO WEPHONDO



Verwysing
Reference
Isalathiso

PT 19/3/1

Navrae
Enquiries
Imibuzo

Y Higgs

TREASURY CIRCULAR NO. 39/2008

THE PREMIER

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THE MINISTER OF COMMUNITY SAFETY
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THE MINISTER OF HEALTH
THE MINISTER OF HOUSING
THE MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING
THE MINISTER OF SOCIAL DEVELOPMENT
THE MINISTER OF TRANSPORT AND PUBLIC WORKS
THE SPEAKER: PROVINCIAL PARLIAMENT
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For information

ALL OTHER MEMBERS OF PARLIAMENT

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NATIONAL TREASURY PRACTICE NOTE NO. 4 OF 2008/09: IRREGULAR EXPENDITURE

PURPOSE

1. To inform Accounting Officers and Chief Financial Officers of departments as well as entities under their control of the content of the National Treasury Practice Note 4 of 2008/09 regarding irregular expenditure incurred.

BACKGROUND

2. The Public Finance Management Act (Act No.1 of 1999 (as amended by Act 29 of 1999) defines irregular expenditure as expenditure, other than unauthorized expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including:
 - (a) this Act; or
 - (b) the State tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or
 - (c) any provincial legislation providing for procurement procedures in that provincial government.

REQUIRED

3. The treatment of irregular expenditure incurred pre and post 1 April 2008 in accordance with National Treasury Practice Note No. 4 of 2008/09.
4. The practice note must be read in conjunction with the latest Preparation Guide Annual Reports for departments.

ENQUIRIES

5. Any further enquiries in this regard may be directed to:
 - Henri du Toit (PT: Accounting Services) Departments (021) 483 3023
 - Nic van Niekerk (PT: Accounting Services) Public Entities (021) 483 6289


ACTING PROVINCIAL ACCOUNTANT-GENERAL

DATE: 26/09/2008



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

TO : ACCOUNTING OFFICERS OF ALL NATIONAL DEPARTMENTS
AND CONSTITUTIONAL INSTITUTIONS
: ACCOUNTING AUTHORITIES OF ALL PUBLIC ENTITIES
: HEAD OFFICIALS OF ALL PROVINCIAL TREASURIES

NATIONAL TREASURY PRACTICE NOTE NO. 4 OF 2008/2009

IRREGULAR EXPENDITURE

1. PURPOSE

1.1 The purpose of this practice note is to provide clarity on the procedures to be followed when dealing with *irregular expenditure*, defined in section 1 of the Public Finance Management Act (PFMA), 1999 as '*expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including –*

- (a) *this Act; or*
- (b) *the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or*
- (c) *any provincial legislation providing for procurement procedures in that provincial government.*

1.2 *This Act* in section 1 of the PFMA includes any regulations and instructions issued in terms of section 69, 76, 85 or 91.

2. PROCEDURES FOR THE TREATMENT OF IRREGULAR EXPENDITURE

2.1 Procedures for the treatment of irregular expenditure by departments, trading entities and constitutional institutions are illustrated in Annexure A whilst Annexure B provides details of procedures to be followed by public entities.

National Treasury Practice Note No. 4 of 2008
Irregular Expenditure

- 2.2 As part of the enclosed procedures, provision is made for accounting officers and accounting authorities to forward submissions to the National Treasury or the relevant authority to request condonation for non-compliance with the PFMA or other legislation respectively. In this regard, it must be emphasised that the aforementioned submission must contain detailed motivation as to why the irregular expenditure in question should be considered for condonation as well as steps taken to avoid the reoccurrence of this type of irregular expenditure.
- 2.3 Whilst provision is made for condonation, it is imperative to note that submissions requesting condonation of irregular expenditure may only be submitted to the National Treasury or the relevant authority (whichever applicable) where good reasons exist for condonation.
- 2.4 In instances where irregular expenditure is not considered relevant for condonation or where National Treasury or the relevant authority does not condone the irregular expenditure, immediate steps must be taken to recover the irregular expenditure from the responsible employee, if he/she is liable in law.

3. RELEVANT AUTHORITY

- 3.1 Whilst this practice note provides for the National Treasury or the relevant authority to condone irregular expenditure, it is imperative that clarity be provided as to who represents the relevant authority.
- 3.2 For the purpose of the practice note relevant authority is *“the person or institution whose approval would have been required prior to entering into that transaction or incurring such expenditure or the institution responsible for the relevant legislation”*
- 3.3 The following are examples of irregular expenditure and the relevant/applicable authority that is empowered to condone such expenditure:

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 relevant treasury . For example, a department, trading entity, constitutional institution or public entity that incurred expenditure related to a public private partnership without obtaining the prior written approval of the relevant treasury , as required by Treasury Regulation 16.4.2	The National Treasury , in the case of national departments, trading entities, constitutional institutions and national public entities and the relevant provincial treasury in the case of provincial departments or provincial public entities

National Treasury Practice Note No. 4 of 2008
Irregular Expenditure

Categories of irregular expenditure	Relevant Authority
Irregular expenditure incurred as a result of non-compliance with a Treasury Regulation which required cognisance to be take 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 determined by the National Treasury for price quotations. (Contravention of Treasury Regulation 16A6.1)	The National Treasury , in cases of all departments, trading entities, constitutional institutions and public entities
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 accounting officer or accounting authority. (Contravention of Treasury Regulation 16A6.4)	The Accounting Officer or the functionary to whom the power was delegated to , in cases of all departments, trading entities and constitutional institutions and in the case of public entities, the Accounting Authority or the functionary to whom the power was delegated to
Irregular expenditure incurred as a result of non-compliance with a requirement of the institution's delegations of authority issued in terms of the PFMA	The Accounting Officer or the functionary to whom the power was delegated to , in cases of all departments, trading entities or constitutional institutions, and in the case of public entities, the Accounting Authority or the functionary to whom the power was delegated to
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 of Public Service and Administration or the Department responsible for the legislation

- 3.4 Expenditure resulting from non-adherence to an institution's delegations of authority is also regarded as irregular expenditure since such delegations are issued in terms of sections 44 and 56 of the PFMA for departments/constitutional institutions and public entities respectively.

National Treasury Practice Note No. 4 of 2008
Irregular Expenditure

- 3.5 Non-compliance with the PFMA, Treasury Regulations or other relevant legislation shall not necessarily be regarded as irregular expenditure unless the expenditure related to such non-compliance is inconsistent with any prescripts of the aforementioned legislation. Furthermore irregular expenditure can only be determined relative to the date when the expenditure is incurred or the transaction is entered into. For example, non compliance with the requirement that payments be made within 30 days from receipt of an invoice (TR 8.2.3) shall not be regarded as irregular expenditure unless the expenditure was authorised by an official who did not possess the appropriate delegated authority to approve the expense in question.
- 3.6 With the imminent dismantling of the State Tender Board established in terms of the State Tender Board Act, 1968, all cases of irregular expenditure incurred through contravention of the aforementioned Act or its subordinate regulations for which condonation is sought must be forwarded to the National Treasury.

4. REGISTER OF IRREGULAR EXPENDITURE

- 4.1 Accounting officers and accounting authorities shall maintain an irregular expenditure register which must contain a detailed schedule (per year) of all irregular expenditure incurred by their respective institutions.
- 4.2 Prior to institutions recording expenditure as irregular, it is imperative that a process be instituted to ensure that the expenditure in question meets with the definition of irregular expenditure, as contained in section 1 of the PFMA.
- 4.3 If in doubt, accounting officers and accounting authorities must consult the relevant treasury for guidance on interpretation of the definition of irregular expenditure.
- 4.4 This register must be kept up to date to track all irregular expenditure and for purposes of internal and external audit.

5. DISCLOSURE OF IRREGULAR EXPENDITURE

- 5.1 Treasury Regulations 9.1.5 and 28.2.1 require accounting officers and accounting authorities to disclose all irregular expenditure incurred by their respective institutions as a note to their annual financial statements.
- 5.2 In this regard, the enclosed Annexure C contains the format for disclosing irregular expenditure as a note to the financial statements by departments, trading entities, constitutional institutions and public entities.

6. ACCOUNTING FOR IRREGULAR EXPENDITURE

National Treasury Practice Note No. 4 of 2008
Irregular Expenditure

- 6.1 Irregular expenditure that was incurred and identified during the current financial 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 also required with the exception of updating the note to the financial statements (no journal is passed).
- 6.2 Irregular expenditure that was incurred and identified during the current financial year and for which condonement is being awaited at year end must be recorded in the irregular expenditure register. No further action is required with the exception of updating the note to the financial statements (no journal is passed).
- 6.3 Where irregular expenditure was incurred in the previous financial year and is only condoned in the following financial year, the register and the disclosure note to the financial statements must be updated with the amount condoned (no journal is passed).
- 6.4 Irregular expenditure that was incurred and identified during the current financial year and which was not condoned by the National Treasury or the relevant authority must be recorded appropriately in the irregular expenditure register. If liability for the irregular expenditure can be attributed to a person, a debt account must be created if such a person is liable in law. Immediate steps must thereafter be taken to recover the amount from the person concerned. If recovery is not possible, the accounting officer or accounting authority may write off the amount as a bad debt and disclose such in the relevant note to the financial statements. The irregular expenditure register must also be updated accordingly. If the irregular expenditure has not been condoned and no person is liable in law, the expenditure related thereto must remain against the relevant programme/expenditure item, be disclosed as such in the note to the financial statements and updated accordingly in the irregular expenditure register (no journal is passed).
- 6.5 The Guide for the Preparation of Annual Reports and Financial Statements for National and Provincial Departments provides details of accounting transactions that are required in respect of irregular expenditure. These transactions are contained in the enclosed Annexure D.
- 6.6 The enclosed Annexure E provides the necessary accounting transactions that are required in respect of trading entities, constitutional institutions and public entities incurring irregular expenditure.
- 7. SUBMISSIONS FOR CONDONATION TO THE RELEVANT DIVISIONS WITHIN THE NATIONAL TREASURY**

Submissions to the National Treasury requesting condonation of irregular expenditure must be directed to the following functionaries:

National Treasury Practice Note No. 4 of 2008
Irregular Expenditure

Irregular expenditure related to:	Functionary
Budget related matters	Relevant Budget Analyst within the Public Finance Division who is responsible for the Department's budgetary matters
Accounting related matters	Relevant official within the Office of the Accountant-General
Supply Chain Management related matters (including matters related to the State Tender Board)	Chief Director: Supply Chain Management (Norms and Standards)

8. APPLICABILITY

This practice note applies to all national and provincial departments, trading entities, constitutional institutions and national and provincial public entities.

9. EFFECTIVE DATE

The procedures contained in this practice note takes effect from 1 April 2008 and must be adhered to by all accounting officers and accounting authorities.

10. DISTRIBUTION OF THIS PRACTICE NOTE

Accounting officers of parent departments are requested to please distribute copies of this practice note to all public entities reporting to their respective executive authorities.

11. AUTHORITY FOR THIS PRACTICE NOTE

This practice note is issued in terms of sections 76(1) to 76(4) of the PFMA which empowers the National Treasury to issue instructions applicable to all institutions to which this Act applies concerning any matter that may be prescribed for all institutions in terms of this Act.

National Treasury Practice Note No. 4 of 2008
Irregular Expenditure

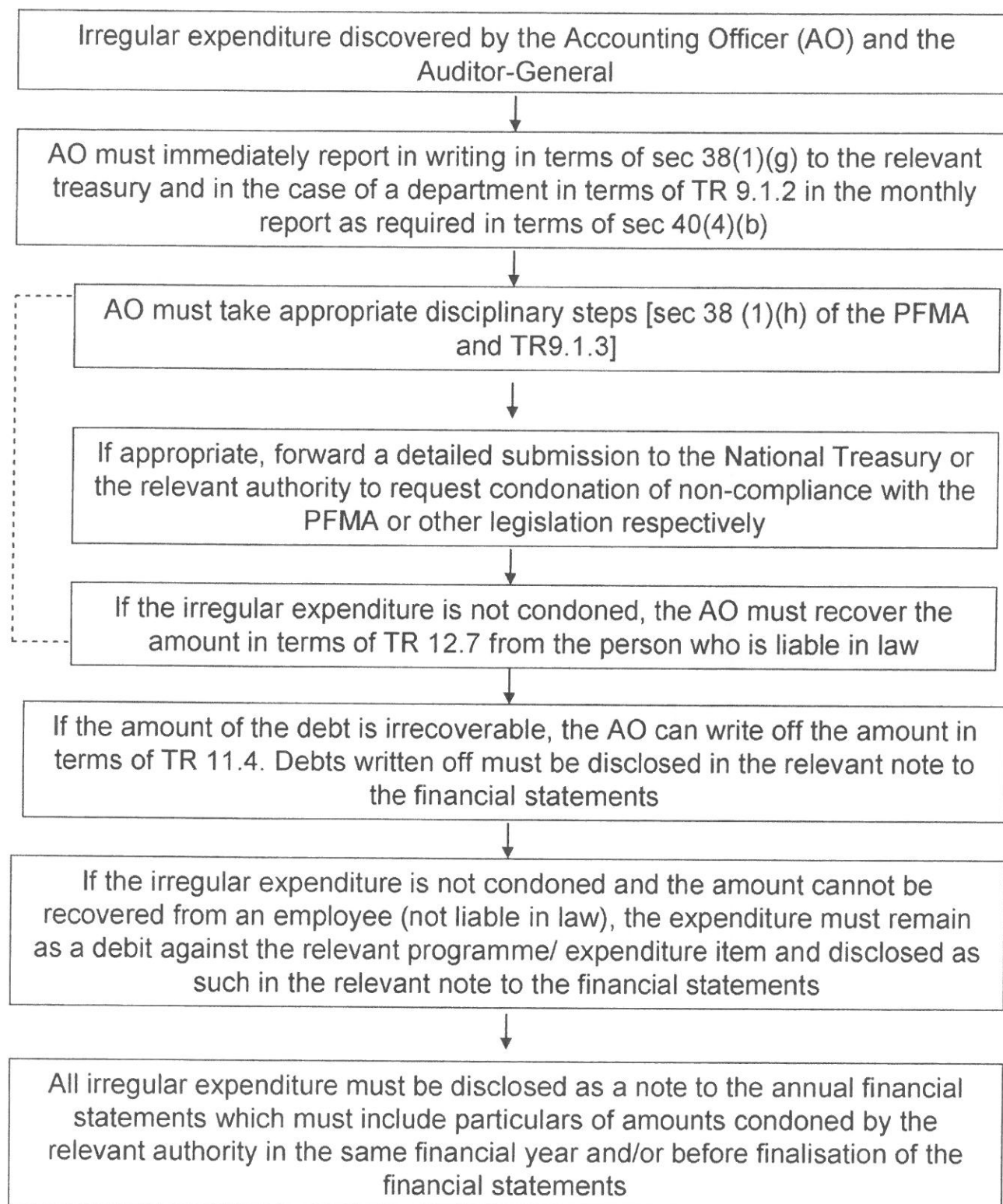
12. CONTACT INFORMATION

Name of OAG representative	Province	Cluster
Naveen Singh Telephone: 012 315 5794 Email: naveen.singh@treasury.gov.za	Gauteng North West	Justice
Thomas Matjeni Telephone: 012 315 5792 Email: thomas.matjeni@treasury.gov.za	Limpopo Western Cape	Social Services
Irene Mathatho Telephone: 012 315 5079 Email: irene.mathatho@treasury.gov.za	Northern Cape	Economic Services
Lizette Labuschagne Telephone: 012 315 5781 Email: lizette.labuschagne@treasury.gov.za	Free State	
Keitumetse Malebye Telephone: 012 315 5989 Email: keitumetse.malebye@treasury.gov.za	Eastern Cape	Finance & Admin
Unathi Ndobeni Telephone: 012 315 5752 Email: unathi.ndobeni@treasury.gov.za	KZN Mpumalanga	Central Government

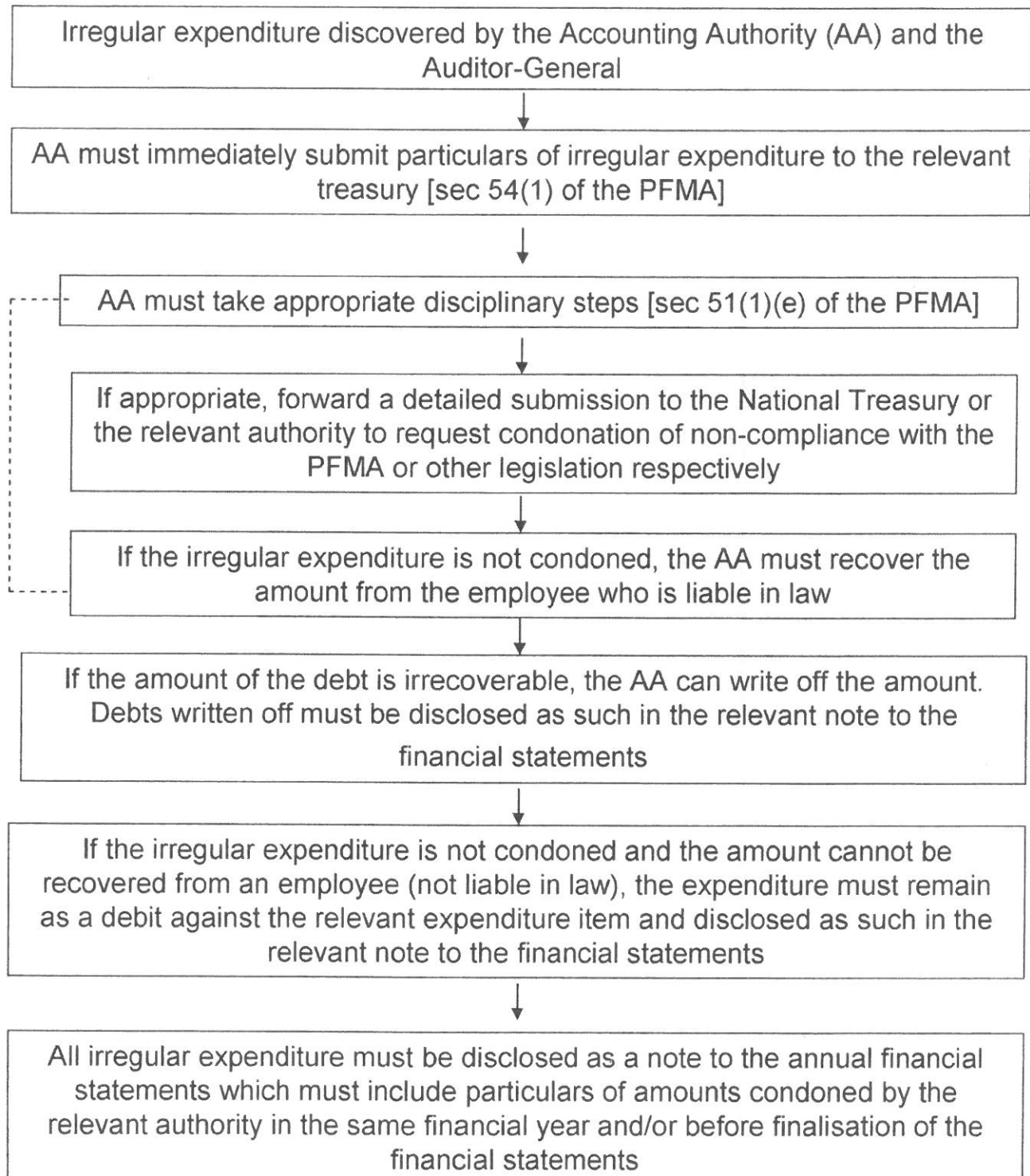


FREEMAN NOMVALO
ACCOUNTANT-GENERAL
DATE: 24 April 2008

PROCEDURE FOR THE TREATMENT OF IRREGULAR EXPENDITURE: DEPTS, TRADING ENTITIES AND CONSTITUTIONAL INSTITUTIONS



**PROCEDURE FOR THE TREATMENT OF IRREGULAR
EXPENDITURE: PUBLIC ENTITIES**



DISCLOSURE OF IRREGULAR EXPENDITURE FOR DEPARTMENTS, TRADING ENTITIES, CONSTITUTIONAL INSTITUTIONS AND PUBLIC ENTITIES

	2008/09 R'000	2007/08 R'000
Opening balance		
Add: Irregular Expenditure – current year		
Less: Amounts condoned		
Less: Amounts recoverable (not condoned)	_____	_____
Less: Amounts not recoverable (not condoned)	_____	_____
Irregular Expenditure awaiting condonation	=====	=====
Analysis of expenditure awaiting condonation per age classification		
Current year	□	□
Prior years		
Total	=====	=====
Details of Irregular Expenditure – Current year		
Incident	Disciplinary steps taken/criminal proceedings	Amount

		=====
Details of Irregular Expenditure condoned		
Incident	Condoned by (condoning authority)	Amount

		=====
Details of Irregular Expenditure recoverable (not condoned)		
Incident		Amount

		=====
Details of Irregular Expenditure not recoverable (not condoned)		
Incident		Amount

		=====

**ACCOUNTING TRANSACTIONS FOR IRREGULAR EXPENDITURE
DEPARTMENTS**

Accounting for irregular expenditure of R400 that was NOT condoned (i.e. recoverable from the responsible official)

	Debit	Credit
Receivables (Pos) ¹	R 400.00	
Expenditure (relevant programme and item) (Per) ²		R 400.00

	Debit	Credit
PMG Account (Pos)	R 400.00	
Receivables (Pos)		R 400.00

	Debit	Credit
Financial transactions in assets and liabilities (Per)	R 400.00	
Receivables (Pos)		R 400.00

Accounting for irregular expenditure of R400 identified in the following financial year

	Debit	Credit
Receivables (Pos)	R 400.00	
Recoverable Revenue Account (Pos)		R 400.00

Due to the books already being closed, the irregular expenditure cannot be removed from the Statement of Financial Performance and should therefore be reflected as a credit in the Recoverable Revenue' Account.

¹ Statement of Financial Position

² Statement of Financial Performance

Accounting for the partial recovery of irregular expenditure amounting to R250 from the responsible official

	Debit	Credit
PMG Account (Pos)	R 250.00	
Receivables (Pos)		R 250.00
Recoverable Revenue Account (Pos)	R 250.00	
Departmental receipts (Per)		R 250.00

With the above transactions, the Receivable Account is credited (cancelled) upon recovery of the abovementioned amount and is accounted for in the Statement of Financial Performance.

Accounting for the writing off of the irrecoverable part of the irregular expenditure by the Accounting Officer

	Debit	Credit
Financial transactions in assets and liabilities (Per)	R 150.00	
Receivables (Pos)		R 150.00
Recoverable Revenue Account (Pos)	R 150.00	
Departmental receipts (Per)		R 150.00

**ACCOUNTING TRANSACTIONS FOR IRREGULAR EXPENDITURE
TRADING ENTITIES, CONSTITUTIONAL INSTITUTIONS AND PUBLIC ENTITIES**

Accounting for irregular expenditure of R400 incurred and identified in the current year

	Debit	Credit
Receivables (Pos) ¹	R 400.00	
Expenditure (Per) ²		R 400.00

Accounting for irregular expenditure of R400 identified in the following financial year

	Debit	Credit
Receivables (Pos)	R 400.00	
Expenditure (Per)		R 400.00

Accounting for the partial recovery of irregular expenditure amounting to R250 from the responsible official

	Debit	Credit
Bank Account (Pos)	R 250.00	
Receivables (Pos)		R 250.00

Accounting for the writing off of the irrecoverable part of the irregular expenditure by the Accounting Officer/Accounting Authority

	Debit	Credit
Bad Debts (Per)	R 150.00	
Receivables (Pos)		R 150.00

¹ Statement of Financial Position

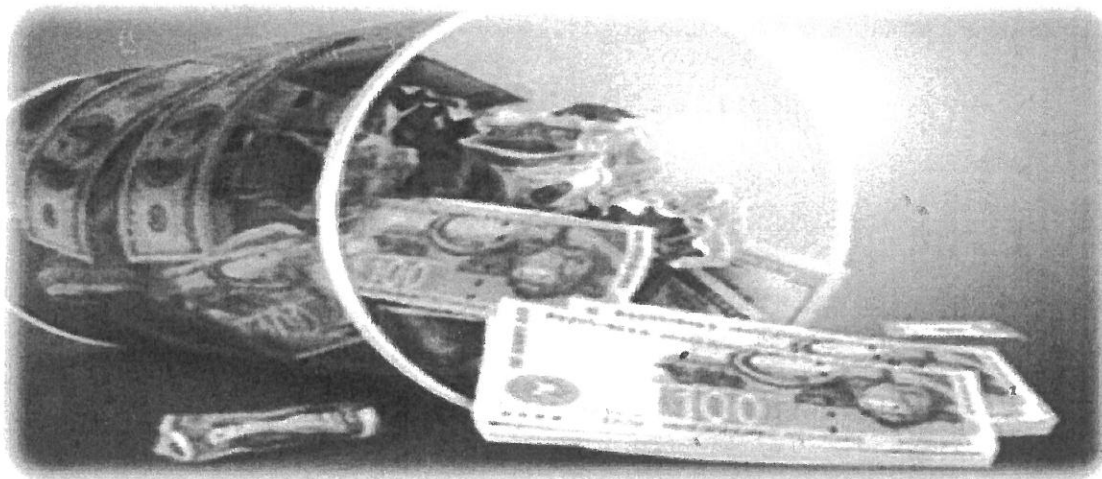
² Statement of Financial Performance



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

UPDATED GUIDELINE ON IRREGULAR EXPENDITURE



OFFICE OF THE ACCOUNTANT-GENERAL

APRIL 2015

GUIDELINE ON IRREGULAR EXPENDITURE

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GUIDELINE ON IRREGULAR EXPENDITURE

PURPOSE

1. The purpose of this *Guideline* is to provide clarity on the procedures¹ to be followed when dealing with the identification and application of *irregular expenditure*, defined in section 1 of the Public Finance Management Act (PFMA), 1999 as '*expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including –*
 - (a) *this Act; or*
 - (b) *the State Tender Board Act, 1968 (Act No. 86 of 1968²), or any regulations made in terms of that Act; or*
 - (c) *any provincial legislation providing for procurement procedures in that provincial government.*
2. This Act in section 1 of the PFMA includes any regulations and instructions issued in terms of section 69, 76, 85 or 91.

APPLICABILITY

3. This *Guideline* applies to all:
 - (a) Departments;
 - (b) Government Components;
 - (c) Trading Entities;
 - (d) Constitutional Institutions; and
 - (e) Public Entities listed in Schedule 2 and 3 to the PFMA.

UPDATE OF THE GUIDELINE ON IRREGULAR EXPENDITURE

4. This *Guideline* is an **update** of the Guideline on Irregular Expenditure issued on 28 May 2014 and takes effect from 01 April 2015.

PRINCIPLES FOR THE TIMING AND RECOGNITION OF IRREGULAR EXPENDITURE

5. For a department or a government component³ to **incur** irregular expenditure, the transgression must be linked to a financial transaction. Although a transaction, condition or an event may trigger irregular expenditure, a department or a government component will only record irregular expenditure when a payment pertaining to the

¹ This *Guideline* does not prescribe any new principle or procedure related to the identification and application of irregular expenditure but is merely a consolidation of provisions that are currently contained in Practice Note 4 of 2008/2009 on Irregular Expenditure.

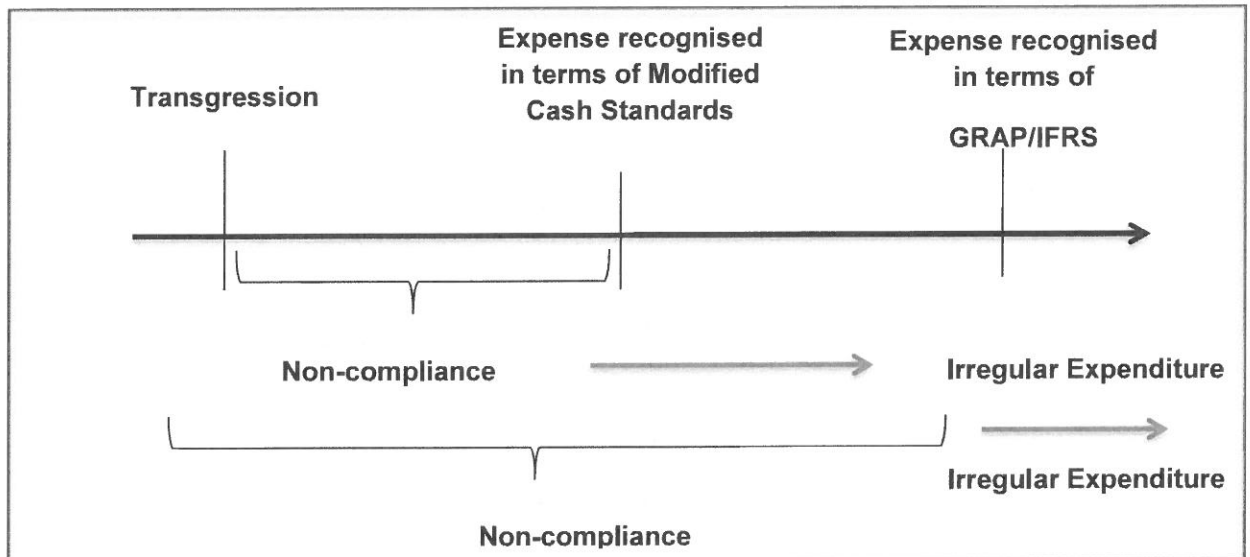
² **Annexure A** provides for the status of the State Tender Board Act, 1968 (Act No. 86 of 1968)

³ This provision is applicable to those government components that are currently applying the modified cash basis of accounting and the Modified Cash Standard issued by the National Treasury.

GUIDELINE ON IRREGULAR EXPENDITURE

non-compliance is actually made (i.e. when the expenditure is recognised in accordance with the recognition principles contained in the Modified Cash Standard).

6. A constitutional institution, a government component required to comply with the standards of GRAP, a trading entity or a public entity listed in Schedules 2 or 3 to the PFMA shall incur irregular expenditure when a transaction, condition or an event linked to the transgression that has financial implications is recognised as expenditure in the Statement of Financial Performance in accordance with the Standards of Generally Recognised Accounting Practice (GRAP) or the International Financial Reporting Standards (IFRS).
7. **Figure 1** below provides for the non-compliance and recognition of irregular expenditure as referred to in paragraph 5 and 6 above. The diagram provides an indication that, if non-compliance is corrected or condoned prior to any expenditure being incurred in terms of the relevant accounting standards, such a transaction, condition or event will not result in irregular expenditure.



8. For the purposes of determining whether irregular expenditure has been incurred, there must first be a transgression of a provision contained in:-
 - (a) the PFMA;
 - (b) the Treasury Regulations;
 - (c) a National Treasury Instruction, issued in terms of section 76 of the PFMA;
 - (d) a Provincial Treasury Instruction issued in terms of section 18(2)(a) of the PFMA; or
 - (e) any other applicable legislation.
9. When applying the test to determine whether irregular expenditure has been incurred, it must be clear that the contravention must relate to how the transaction, condition or event was entered into and by whom as opposed to when the transaction, condition or

GUIDELINE ON IRREGULAR EXPENDITURE

event was entered into. For example, non-compliance with the requirement to pay an invoice within 30 days from its receipt (Treasury Regulation 8.2.3) shall not be regarded as irregular expenditure unless the expenditure itself was incurred in contravention of relevant legislation or was not authorized by a duly delegated official.

10. In addition to paragraph 9 above, such a transaction, condition or event must have been incurred in contravention of the relevant legislation and must also have a financial implication for it to constitute irregular expenditure.

FINANCIAL MISCONDUCT

11. Section 38(1)(c)(ii) and section 51(1)(b)(ii) of the PFMA, requires an accounting officer or accounting authority to take effective and appropriate steps to, amongst others, prevent irregular expenditure.
12. In terms of section 81(1)(b) and 83(1)(b) of the PFMA, an accounting officer or accounting authority shall commit an act of financial misconduct if that accounting officer or accounting authority makes or permits irregular expenditure.
13. Similarly, section 81(2) and 83(3) of the PFMA provides that officials serving in the institutions referred to in paragraph 3 above shall commit an act of financial misconduct if he or she fails to take effective and appropriate steps to prevent irregular expenditure within that official's area of responsibility as required in terms of section 45(c) and section 57(c) of the PFMA.
14. In terms of sections 38(1)(h)(iii) and 51(1)(e)(iii) of the PFMA, the accounting officer or accounting authority must take effective and appropriate disciplinary steps against any official in the service of their respective institutions who makes or permits irregular expenditure.
15. Treasury Regulation 4.1.3 provides that, if an accounting officer is alleged to have committed financial misconduct, the relevant treasury, must, as soon as it becomes aware of the alleged misconduct, ensure that the relevant executive authority initiates an investigation into the matter and if the allegations are confirmed, holds a disciplinary hearing in accordance with the prescripts and agreements applicable in the public service.
16. Similarly, if an accounting authority or any of its members is alleged to have committed financial misconduct, the relevant executive authority must initiate an investigation into the matter and if the allegations are confirmed, must ensure that appropriate disciplinary proceedings are initiated immediately as required by the Treasury Regulation 33.1.3.

GUIDELINE ON IRREGULAR EXPENDITURE

UNAUTHORISED EXPENDITURE⁴VERSUS IRREGULAR EXPENDITURE

Departments

17. If a department or a government component incurs expenditure that contravenes any applicable legislation as indicated in paragraph 8 above, this expenditure meets the definition of irregular expenditure and must be classified as such.
18. Should the irregular expenditure in paragraph 17 above relate to an expenditure being incurred not in accordance with the purpose of the main division/vote or which results in the overspending of the main division/vote, such expenditure also meets the definition of unauthorised expenditure.
19. Transactions such as those indicated in paragraphs 17 and 18 above may not both be recognised as irregular expenditure and unauthorised expenditure. Considering that irregular expenditure is defined as expenditure other than unauthorised expenditure, this means that unauthorised expenditure shall take precedence over irregular expenditure.

Public Entities listed in Schedules 3A and 3C to the PFMA

20. In terms of section 53(4) of the PFMA, the accounting authority of a national or a provincial public entity listed in Schedule 3A and 3C to the PFMA is responsible for ensuring that expenditure of that public entity is in accordance with the approved budget of the institution.
21. If a public entity referred to in paragraph 20 above incurred⁵ expenditure that contravenes the provision of section 53(4) of the PFMA, it must be indicated that such a public entity has spent not in accordance with its approved budget and the non-compliance linked to the transaction, condition or event that lead to such a spending must be recognised as irregular expenditure. In this case, the amount to be disclosed as irregular expenditure will be the excess amount over the approved budget.
22. Based on the aforementioned, it is clear that even though public entities listed in schedules 3A and 3C to the PFMA will not incur unauthorised expenditure when they overspend on their respective budgets, such an overspending must be recognised as irregular expenditure in the notes to the financial statements.

ACCOUNTING POLICY FOR IRREGULAR EXPENDITURE

23. The following is the recommended accounting policy for irregular expenditure:

⁴ Unauthorised expenditure is a concept that is only applicable to departments.

⁵ Expenditure is incurred when the expenditure linked to the transaction, condition or event is recognised in the Statement of Financial Performance.

GUIDELINE ON IRREGULAR EXPENDITURE

“Irregular expenditure is recorded in the notes to the financial statements when confirmed. The amount recorded is equal to the value of the irregular expenditure incurred, unless it is impractical to determine, in which case reasons therefore must be provided in the notes.”

“Irregular expenditure receivables are measured at the amount that is expected to be recovered and are de-recognised when settled or written-off as irrecoverable.”

24. *Irregular expenditure must be removed from the balance of the irregular expenditure notes when it is either*
- (a) *condoned by the relevant authority if no official was found to be liable in law;*
 - (b) *recovered from an official liable in law;*
 - (c) *written-off⁶ if it's irrecoverable from an official liable in law; or*
 - (d) *written-off⁷ if it's not condoned and not recoverable.*
25. In line with paragraph 24(d) above, irregular expenditure that is not recoverable because no official was found to be liable in law for such a transgression and was also not condoned by the relevant authority must be de-recognised in the balance of the irregular expenditure note. The accounting officer or accounting authority must only de-recognise the irregular expenditure referred to in paragraph 24(d) above when he or she is satisfied that:
- (a) reasonable steps have been taken to confirm that such irregular expenditure did not result in any loss or damages to the state and that the state did obtain value from such a transaction, condition or event;
 - (b) the non-compliance that lead to the irregular expenditure is being addressed; and
 - (c) transactions, conditions or events of a similar nature are regularly reviewed to ensure that there are no possible future non-compliance cases reported.
26. The accounting officer or accounting authority may proceed with the “write-off” of the irregular expenditure after confirmation of the controls indicated in paragraph 25 above have been met and by informing the relevant delegated official in writing to de-recognise the irregular expenditure in the notes to the financial statements.

⁶ Debt is written off “against savings” if an official was found to be liable in law and a debtor was recorded for the recovery of such a debt.

⁷ Irregular expenditure is “NOT written off against savings” but de-recognised from the balance of the irregular expenditure in the notes to the annual financial statements if an official of the institution was not found liable in law for the transgression.

GUIDELINE ON IRREGULAR EXPENDITURE

PROCEDURES FOR THE TREATMENT OF IRREGULAR EXPENDITURE

27. Procedures for the discovery, investigation and reporting of irregular expenditure

27.1. Discovery of irregular expenditure

- (a) In terms of Treasury Regulations 9.1.2, an employee of a department, a trading entity, a government component or a constitutional institution who becomes aware of or suspects the occurrence of irregular expenditure must immediately, in writing, report such expenditure to the accounting officer of their respective institution. An employee of a public entity who becomes aware of or suspects the occurrence of irregular expenditure must report such irregular expenditure in line with the policy of the public entity.
- (b) The accounting officer or accounting authority must record 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.

27.2. 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) the 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.

27.3. 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

GUIDELINE ON IRREGULAR EXPENDITURE

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.
- (c) In terms of section 55(2)(b)(ii) of the PFMA, the accounting authority of a public entity must include particulars of any criminal or disciplinary steps taken as a consequence of such irregular expenditure in the annual report and financial statements for that financial year.

28. Procedures for raising a receivable (debtor)⁸ and the recovery of irregular expenditure

28.1 Recovery of irregular expenditure

- (a) The accounting officer or accounting authority 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 departments, trading entities, constitutional institutions and government components must be dealt with in accordance with Regulations 12, whilst the accounting authority of a public entity will recover such losses or damages resulting from irregular expenditure in line with their respective policy.

28.2 Determination of an official liable in law

- (a) The accounting officer or accounting authority must determine who the responsible official is from whom the amount should be recovered and whether

⁸ 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.

GUIDELINE ON IRREGULAR EXPENDITURE

there were losses or damages suffered by the state. This information would normally become evident while performing the investigation.

- (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 or accounting authority 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;

28.3 Confirmation of a person liable in law

- (a) The accounting officer or accounting authority must in writing request that the responsible official pay the amount within 30 days or in reasonable installments. 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 institution and the institution 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. The accounting authority of a public entity will follow similar process in line with their respective policies.
- (c) If the amount of the irregular expenditure is irrecoverable from an official who is liable in law⁹ and the state has suffered a loss or damage, the accounting officer may write off the debt in terms of Treasury Regulation 11.4. The accounting authority may perform similar actions in terms of the public entity's debt write off policy.

⁹ An official who is liable in law means" a legal responsibility of an official's acts or omissions

GUIDELINE ON IRREGULAR EXPENDITURE

- (d) In terms of paragraph 15 and 16 above, 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.

28.4 Irregular expenditure written off

- (a) The accounting officer or accounting authority may grant approval for the irregular expenditure to be de-recognised were 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 28.4 (a) above must be available for audit purposes.

29. Procedures for the condonation of irregular expenditure

- (a) As part of the enclosed procedures, provision is made for the accounting officer or accounting authority to forward submissions to the relevant authority to request condonation of irregular expenditure.
- (b) Such condonation request referred to in paragraph 29(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. It must, however, be emphasised that submissions requesting condonation of irregular expenditure must at least contain the following:
 - (i) evidence¹⁰ 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;

¹⁰ This evidence may be in a form of a letter approved by the accounting officer, accounting authority or a duly authorized official or a copy of the enquiry/investigation report.

GUIDELINE ON IRREGULAR EXPENDITURE

- (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.
30. The below **Annexure B** illustrates a step by step process to the treatment of irregular expenditure, whilst **Annexure C** indicates the accounting framework for irregular expenditure.
31. Furthermore, the below **Annexure D** illustrates procedures for the treatment of irregular expenditure by departments, trading entities, government components and constitutional institutions whilst **Annexure E** illustrates procedures to be followed by public entities and **Annexure F** indicates a template for the irregular expenditure register.

RELEVANT AUTHORITY

32. For purposes of condoning irregular expenditure, the relevant authority is “the person or institution whose approval would have been required prior to entering into that transaction or incurring such expenditure or the institution responsible for the relevant legislation”.
33. Where the accounting authority of a public entity consists of a board, such authority may delegate the power to condone irregular expenditure to the next lower level of authority within the public entity, for example, Chief Executive Officer.

DELEGATIONS OF AUTHORITY

34. Expenditure resulting from non-adherence to an institution’s delegations of authority shall be regarded as irregular expenditure since such delegations are issued in terms of section 44 and 56 of the PFMA for departments, constitutional institutions, trading entities and public entities respectively.

GUIDELINE ON IRREGULAR EXPENDITURE

EXAMPLES OF IRREGULAR EXPENDITURE

35. 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
Irregular expenditure incurred as a result of non-compliance with a Treasury Regulation where prior written approval was required from a relevant treasury . For example, a department, trading entity, constitutional institution or public entity that incurred expenditure related to a public private partnership without obtaining the prior written approval of the relevant treasury , as required by Treasury Regulation 16.4.2.	The National Treasury , in the case of national departments, trading entities, constitutional institutions and national public entities and the relevant provincial treasury in the case of provincial departments or provincial public entities.
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 determined by the National Treasury for price quotations. (Contravention of Treasury Regulation 16A6.1)	The National Treasury , in cases of all departments, trading entities, constitutional institutions and public entities.
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)	The Accounting Officer , in cases of all departments, trading entities and constitutional institutions and in the case of public entities, the Accounting Authority .
Irregular expenditure incurred as a result of non-compliance with a requirement of the institution'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.	The Accounting Officer , in cases of all departments, trading entities or constitutional institutions and in the case of public entities, the Accounting Authority .
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 and Administration.

GUIDELINE ON IRREGULAR EXPENDITURE

36. From the above table it is clear that in certain instances, the accounting officer or accounting authority has the power to condone irregular expenditure that was incurred as a result of transgressions by their respective officials.
37. If, however, the accounting officer or accounting authority is responsible for the transgression, only the relevant treasury may condone such a transgression.
38. The accounting policy of irregular expenditure as referred to in paragraph 23 and paragraph 24 of this guideline provides that “the amount to be recorded in the notes to the financial statements must be equal to the value of the irregular expenditure incurred”. Therefore if a department incurred irregular expenditure, the amount of the irregular expenditure to be recorded will be equal to the amount of invoices paid by the department. The entire contract amount should not be recorded as irregular expenditure as irregular expenditure will only be recorded as being incurred at a point of payment.
39. Due to the different accounting policy of irregular expenditure followed by departments and public entities, a public entity must record the extent of the expenditure recorded in relation to the contractual liability that has been recorded in the statement of financial position.
40. In terms of the Treasury Regulation 4.1.3, if the accounting officer has incurred irregular expenditure that has resulted in a state suffering a loss or a damage, the relevant treasury as soon as it becomes aware of the alleged irregular expenditure, must ensure that the relevant executive authority initiates an investigation into the matter and if the allegations are confirmed, holds a disciplinary hearing in accordance with the prescripts applicable and agreements applicable in the public service.
41. The Treasury Regulation 33.1.3 provides that, if the accounting authority has incurred irregular expenditure that has resulted in a state suffering a loss or damage, the relevant executive authority must initiate an investigation into the matter and if the allegations are confirmed, must ensure that appropriate disciplinary proceedings are initiated immediately.

RECORDING IN THE IRREGULAR EXPENDITURE REGISTER

42. Accounting officers and accounting authorities must maintain an irregular expenditure register which must contain a detailed schedule for each financial year listing all irregular expenditure incurred by their respective institutions. An example of an irregular expenditure register is contained in the enclosed **Annexure F**.
43. Prior to institutions recording expenditure as irregular, a process must be instituted to ensure that the expenditure in question falls within the definition of irregular expenditure, as provided in section 1 of the PFMA.

GUIDELINE ON IRREGULAR EXPENDITURE

44. If in doubt, the accounting officer or accounting authority must consult the relevant treasury for guidance on the interpretation of the definition of irregular expenditure.
45. The irregular expenditure register must be kept up to date in order to track all the alleged and confirmed irregular expenditure for the purposes of maintaining an audit trail. This will also assist in ensuring that the irregular expenditure note in the annual financial statements is accurate and complete.


RECORDING OF IRREGULAR EXPENDITURE IN THE ANNUAL FINANCIAL STATEMENTS

46. Accounting officers and accounting authorities are encouraged to conclude on enquiries or investigations conducted in relation to irregular expenditure within 30 days from the date on which the alleged irregular expenditure was discovered or as soon as practically possible as required by the Treasury Regulation 4.1.2 and 33.1.2 respectively. If such enquiries or investigations are not concluded by the date on which the annual financial statements are published, a narrative to this effect must be included in the irregular expenditure register.
47. The accounting officer or accounting authority must 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.
48. Treasury Regulations 9.1.5 and 28.2.1 require accounting officers and accounting authorities to disclose all irregular expenditure incurred by their respective institutions 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.
49. The disclosure of irregular expenditure incurred is a legal requirement rather than an accounting requirement. It is the act that results in irregular expenditure that is of importance to the user of the financial statements. The amount does not add to its significance and focusing on the quantification of irregular expenditure, while it is important, may divert attention away from the act itself. The primary focus from an oversight perspective is ensuring that spending agencies abide by the law in executing their mandates.
50. The Modified Cash Standard provides for the annual financial statements disclosure requirements for departments and government components operating on a modified cash basis of accounting. The annual financial statements template must be used to complement the Modified Cash Standard and provide for a format in which the disclosure requirements of irregular expenditure must be presented in the annual


GUIDELINE ON IRREGULAR EXPENDITURE

financial statements and related notes. The annual financial statements template must be used for disclosure requirements of irregular expenditure for government components operating on an accrual basis of accounting, trading entities, constitutional institutions and public entities.



51. 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.
52. In line with the Treasury Regulation 12.5.1, it is acknowledged that there may be instances where the irregular expenditure arose from fraudulent, corrupt and criminal activities or through actions that deprived the state of value for money and may result in the state suffering a loss or damages which may prompt the state to institute a civil claim against a third party and report the matter, in writing, to the accounting officer and the South Africa Police Service.
53. In such cases the accounting officer would have to evaluate the impact of the infraction and the likelihood of someone being liable in law. The extent of the liability would thus have to be established. If the total amount could not be established by the date of approval for issue of the annual financial statements, the sub-notes must disclose this fact along with the reasons why.
54. The accounting officer or accounting authority 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.
55. The table below provides a process to be followed in relation to the disclosure of irregular expenditure identified in current and previous financial periods.

Description	Transgression took place in the <u>current</u> financial year	Transgression took place in a <u>previous</u> financial year
Suspected irregular expenditure identified and in the process of enquiry/investigation for it to be confirmed 	No disclosure in the irregular expenditure note	No disclosure in the irregular expenditure note

GUIDELINE ON IRREGULAR EXPENDITURE

Description	Transgression took place in the <u>current</u> financial year	Transgression took place in a <u>previous</u> financial year
<p>Alleged transaction, event or condition was confirmed as irregular expenditure and further investigated to determine the nature, extent and root cause of the transgression (where for example the institution is in the process of establishing whether this is isolated).</p> 	<p>Disclose amount of irregular expenditure confirmed and note that further instances (the extent) of this type of irregular expenditure are under investigation.</p> <p>Continue with process as described below.</p>	<p>Disclose amount of irregular expenditure confirmed and note that further instances (the extent) of this type of irregular expenditure are under investigation.</p> <p>Continue with process as described below.</p>
<p>Institute a process to identify any fraudulent, corrupt and criminal activities or actions that deprived the state of value for money and may result in the state instituting a civil claim against a third party.</p> 	<p>If confirmed criminal activities etc.:</p> <ul style="list-style-type: none"> • follow relevant steps required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities); • report in terms of section 34 of the Prevention and Combating of Corrupt Activities Act, 2003; • determine amount paid in current financial year; • disclose amount in the main note as "irregular expenditure - relating to current year"; • include supplementary disclosure on the disciplinary steps taken/criminal proceedings instituted. 	<p>If confirmed criminal activities etc.:</p> <ul style="list-style-type: none"> • follow relevant steps required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities); • report in terms of section 34 of the Prevention and Combating of Corrupt Activities Act, 2003; • determine amount paid from date of transgression to end of reporting period; • disclose amount in the main note as "irregular expenditure – relating to prior year"; • include supplementary disclosure on the disciplinary steps taken/criminal proceedings instituted.

GUIDELINE ON IRREGULAR EXPENDITURE

Description	Transgression took place in the <u>current</u> financial year	Transgression took place in a <u>previous</u> financial year
<p>Confirmation that the irregular expenditure was not the result of fraudulent, corrupt and criminal activities or actions that deprived the state of value for money that may result in the state instituting a civil claim against a third party.</p>	<p>If not confirmed by the date on which the financial statements are authorised for issue:</p> <ul style="list-style-type: none"> • follow the process below and disclose the fact that further investigations are still underway; <div style="text-align: center;">  </div> <ul style="list-style-type: none"> • follow relevant steps required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities) and Treasury Regulations 33 for public entities • determine amount paid and disclose amount in the main note as "irregular expenditure - relating to current year"; • if can demonstrate that it is impractical to determine the total irregular expenditure, disclose details of transgression and reasons why the amount cannot be quantified. 	<p>If not confirmed by the date on which the financial statements are authorised for issue:</p> <ul style="list-style-type: none"> • follow the process below and disclose the fact that further investigations are still underway • if not confirmed in a subsequent financial period, the full amount must be quantified and disclosed as above <div style="text-align: center;">  </div> <ul style="list-style-type: none"> • required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities) and Treasury Regulations 33 for public entities • determine amount paid from date of transgression to end of reporting period and disclose amount in the main note as "irregular expenditure – relating to prior year"; • if can demonstrate that it is impractical to estimate the total irregular expenditure, disclose details of transgression and reasons why the amount cannot be

CONTRACTS ARRANGED BY OTHER INSTITUTIONS

56. Irregular expenditure is defined as expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any relevant legislation.

GUIDELINE ON IRREGULAR EXPENDITURE

57. In line with paragraph 56 above, for an institution to disclose irregular expenditure, there must first be a transgression of the law and secondly there must be expenditure recognised in the books of an institution. When non-compliance has been identified in a contract arranged by other institutions, to determine where the irregular expenditure must be disclosed, the first aspect is to determine the line item of the expenditure from the Statement of Financial Performance where the irregular expenditure is incurred.
58. This can be applied to different aspects where contracts of departments, government components, trading entities, constitutional institutions and public entities are arranged by other institutions as follows:

National Government

58.1 Lease contracts arranged by the Property Management Trading Entity (PMTE)

- (i) If a lease contract is arranged by the Property Management Trading Entity (PMTE) and expenditure on such lease is incurred and recognised by the Property Management Trading Entity (PMTE), any non-compliance on such lease contracts which constitutes irregular expenditure will be disclosed in the register and the notes to the annual financial statements of the Property Management Trading Entity (PMTE).

58.2 Construction contracts arranged by the Property Management Trading Entity (PMTE)

- (i) If a construction contract is arranged by the Property Management Trading Entity (PMTE) and expenditure on such construction contract is incurred and recognised by the Property Management Trading Entity (PMTE), any non-compliance on such contracts which constitute irregular expenditure will be disclosed in the register and the notes to the annual financial statements of the Property Management Trading Entity (PMTE).

Provincial Government

58.3 Lease contracts arranged by the Provincial Department of Public Works

- (i) If a lease contract is arranged by the Provincial Department of Public Works and expenditure on such lease is incurred and recognised by the client, any irregular expenditure emanating from such a lease contract will be disclosed in the register and the notes to the annual financial statements of the client.
- (ii) However, if expenditure on such lease is incurred and recognised by the Provincial Department of Public Works, any irregular expenditure

GUIDELINE ON IRREGULAR EXPENDITURE

emanating from such a lease contract will be disclosed in the register and the notes to the annual financial statements of the Provincial Department of Public Works.

58.4 Construction contracts arranged by the provincial Department of Public Works

- (i) If a construction contract is arranged by the Provincial Department of Public Works and payment on such a construction contract is effected by the client demonstrates that any irregular expenditure emanating from such a construction contract will be disclosed in the register and the notes to the annual financial statements of the client.
- (iii) However, if payment on a construction contract is effected by the Provincial Department of Public Works on behalf of the client demonstrates that any irregular expenditure emanating from such a construction contract will be disclosed in the register and the notes to the annual financial statements of the Provincial Department of Public Works.

National and provincial government

- 59. Where institutions are mandated in terms of the law to make use of other organs of state to procure goods and/or services, the institution receiving the goods and/or services must, **where possible**, ensure that it has supply chain management representatives on the mandated institution's bid committee to confirm that appropriate supply chain management procedures have been followed.
- 60. If supply chain management transgressions are identified in the procurement processes of the mandated institution, the supply chain management representatives of the institution that is going to receive the goods and/or services must immediately inform the accounting officer or accounting authority of the institution that he or she represents.
- 61. In line with paragraphs 59 and 60 above, the procuring institutions (Client) must always be represented in the bid committees of the mandated institutions for the procurement goods or services procured on their behalf, unless there are justifiable reasons for not being represented in the bid committees and such reasons must be in writing. This can further be explained as follows:

Transversal term contracts arranged by Treasury or State Information Technology Agency (SITA)

61.1 Institutions that are not represented in the Bid Committees

- (i) Institutions (client) that are not represented in the bid committees will not bear any irregular expenditure emanating from transgressions with the laws and regulations.

GUIDELINE ON IRREGULAR EXPENDITURE

(ii) **Disclosure of irregular expenditure**

<i>Agent (Mandated Institution)</i>	<i>Client (Procuring Institution)</i>
Non-compliance	No disclosure

61.2 Institutions that are represented in the Bid Committees

- (i) Institutions that are represented in the bid committees of the mandated institution will record the irregular expenditure in the registers and notes to their annual financial statements if there were any non-compliance matters with the laws and regulations emanating from such transversal contracts.
- (ii) The amount of the irregular expenditure to be disclosed must relate to the portion of the procurement costs of the institution (Client) that was represented in the bid committee.
- (iii) **Disclosure of irregular expenditure**

<i>Agent (Mandated Institution)</i>	<i>Client (Procuring Institution)</i>
Non-Compliance	Irregular-Expenditure

61.3 Contracts which are specific to the procuring institution (Client)

- (i) Paragraph 13 of the State Information Technology Agency (SITA) regulation and paragraph 4.2.2 of practice note 5 of 2009/2010 requires a procuring institution (client) to be involved in the bid evaluation process and make recommendations for the award to the Recommendation Committee including the identification of all risks associated with the recommendation and the rating of all the risks.
- (ii) Any irregular expenditure emanating from such specific contracts must be recorded in the registers and the notes to the annual financial statements of the procuring institutions (client).
- (iii) **Disclosure of irregular expenditure**

<i>Agent (Mandated Institution)</i>	<i>Client (Procuring Institution)</i>
No disclosure	Irregular expenditure

GUIDELINE ON IRREGULAR EXPENDITURE

61.4 Other contracts which are specific to the procuring institution (Client) including capital projects performed through the Department of Public Works, Independent Development Trust and other Mandated Institutions

(i) Such institutions must be represented in the bid committees of the mandated institutions and any irregular expenditure emanating from such contracts will be recorded in the register and notes to the annual financial statements of the procuring institutions (Client).

(ii) **Disclosure of irregular expenditure**

<i>Agent (Mandated Institution)</i>	<i>Client (Procuring Institution)</i>
No disclosure	Irregular expenditure

GUIDELINE ON IRREGULAR EXPENDITURE

STATUS OF THE TENDER BOARD ACT, 1968

ANNEXURE A

1. The State Tender Board Act, 1968 (Act No. 86 of 1968) establishes the State Tender Board and provides, among others, for regulating the procurement of goods and services of national departments, for the disposal of movable property and the hiring or letting of anything. Provinces had similar legislation that established Provincial Tender Boards and which offered matters similar to those provided for in State Tender Board Act, 1968.
2. It must be noted that in section 1 of the PFMA, irregular expenditure is also deemed to have occurred if there was contravention of the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act.
3. In December 2003, the National Treasury issued a Supply Chain Management Framework in terms of section 76(4)(c) of the PFMA. This Framework was published in Government Gazette No. 25767 dated 5 December 2003 and took effect from the same date.
4. In essence, the aforementioned Framework provides that accounting officers and accounting authorities of Schedule 3A and 3C public entities must develop and implement effective and efficient systems of supply chain management and to establish separate supply chain management units reporting to their respective chief financial officers.
5. Prior to this Framework taking effect, all national and provincial departments arranged for the procurement of their goods and services in terms of legislation that established their respective Tender Boards.
6. After this Framework took effect, all Provinces repealed legislation that established their respective Provincial Tender Boards and which also determined the manner in which their supplies (goods) and services were procured.
7. When the Supply Chain Management Framework took effect, it was recognised that the State Tender Board Act, 1968 (Act No. 86 of 1968) provided that national departments were only to procure their supplies for goods and services through the State Tender Board. This in effect was in conflict with provisions of the Supply Chain Management Framework, which required departments to procure their goods and services either through the State Tender Board or in terms of the PFMA.
8. On 5 December 2003, the Minister of Finance therefore published an amendment to regulations in terms of section 13 of the State Tender Board Act, 1968 (Act No. 86 of 1968) which essentially allowed for accounting officers of national departments to procure their goods and services either through the State Tender Board or by using the provisions contained in the Supply Chain Management Framework.

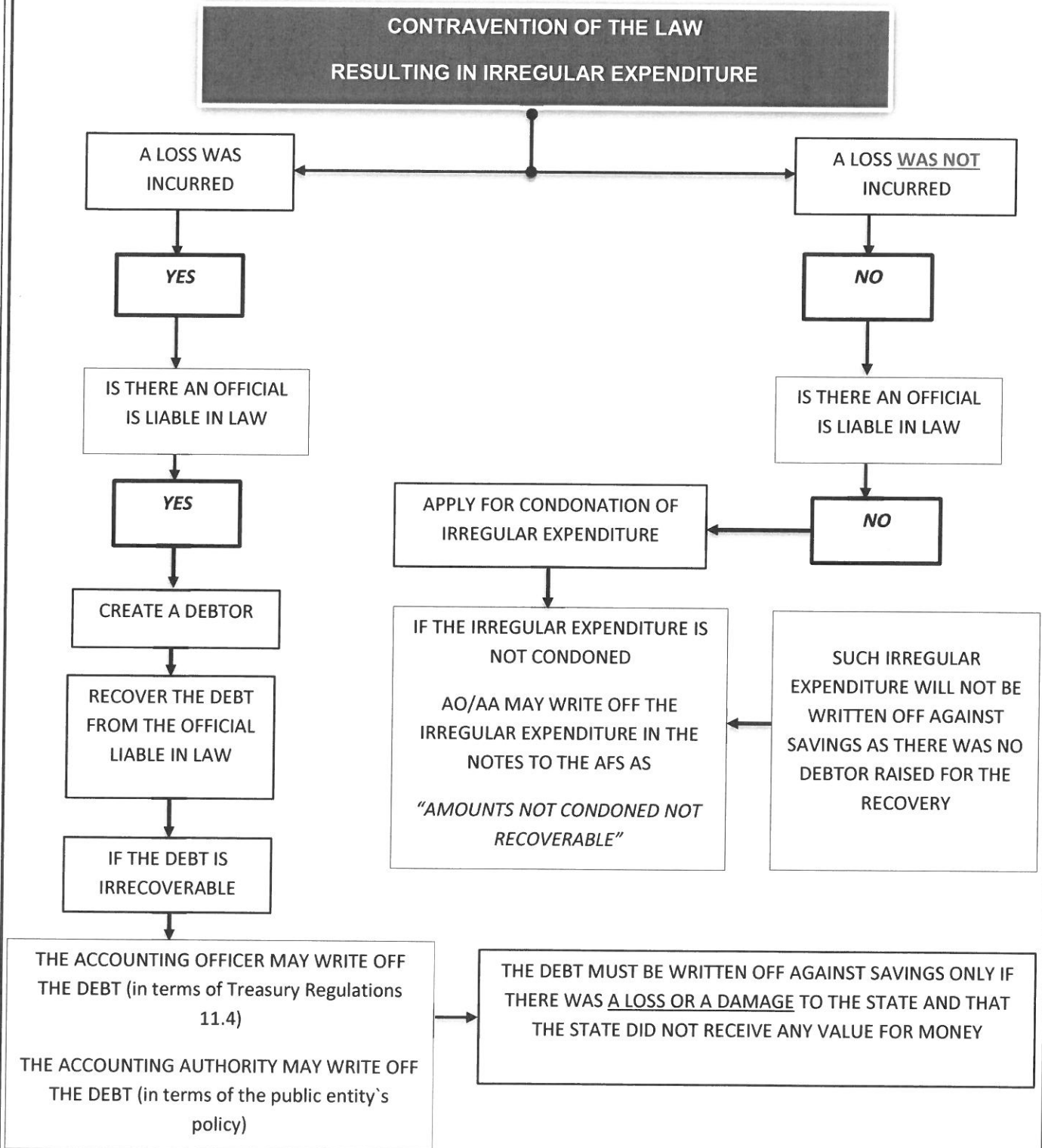
GUIDELINE ON IRREGULAR EXPENDITURE

9. The amendment to the State Tender Board Act Regulations is consistent with the ethos of the PFMA which empowers accounting officers to manage but be held accountable for all expenditure incurred by their respective departments.
10. Whilst the above amendment provides for a 'dual system' of procurement, the State Tender Board at the national level of government has since been ***disbanded*** and it is the intention to repeal the currently dormant State Tender Board Act, 1968 (Act No. 86 of 1968) when amendments are effected to the PFMA.

GUIDELINE ON IRREGULAR EXPENDITURE

STEP BY STEP TREATMENT OF IRREGULAR EXPENDITURE

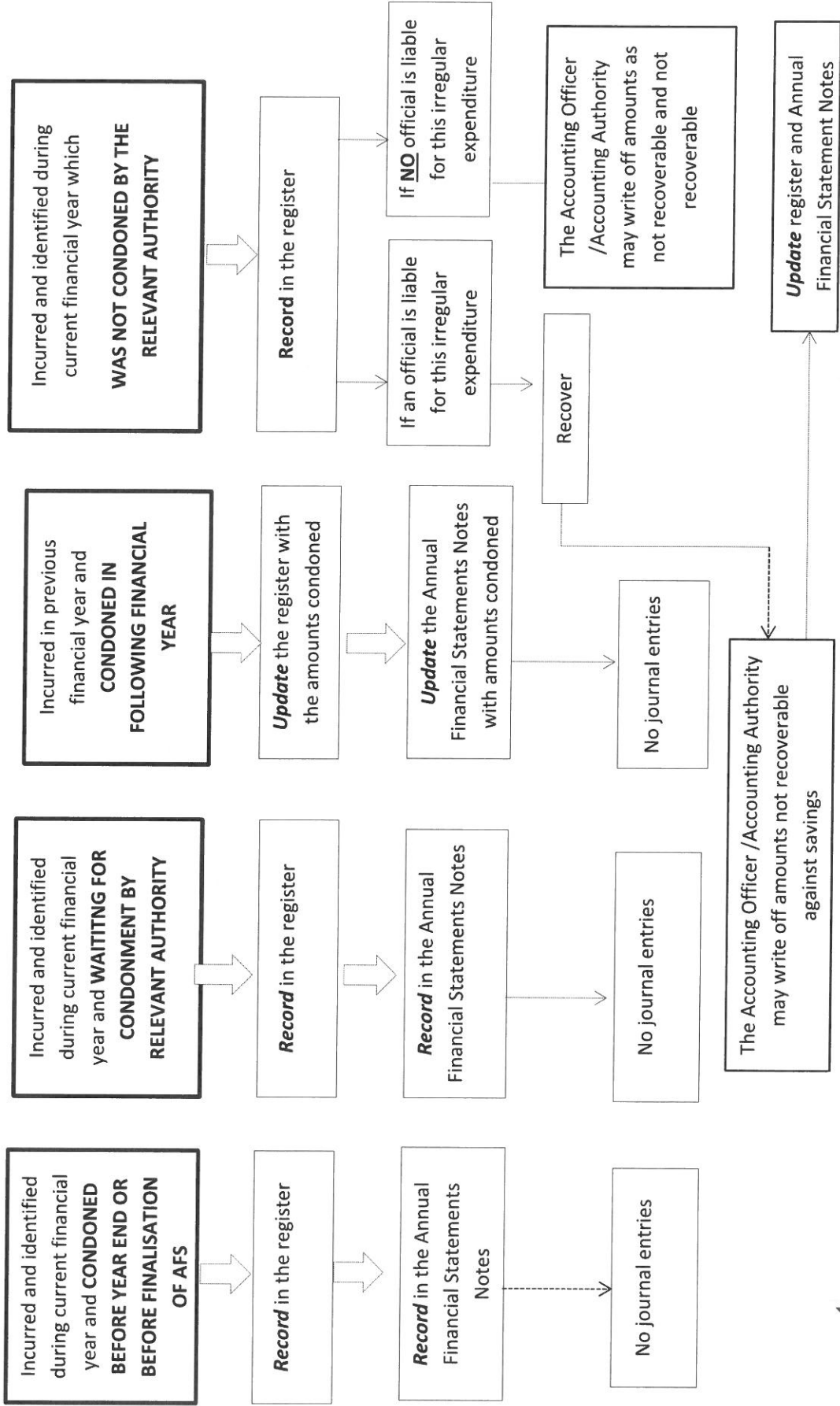
ANNEXURE B



GUIDELINE ON IRREGULAR EXPENDITURE

ACCOUNTING FOR IRREGULAR EXPENDITURE

ANNEXURE C



GUIDELINE ON IRREGULAR EXPENDITURE

PROCEDURE FOR THE TREATMENT OF IRREGULAR EXPENDITURE

ANNEXURE D

DEPARTMENTS, GOVERNMENT COMPONENTS, TRADING ENTITIES AND CONSTITUTIONAL INSTITUTIONS

Irregular expenditure discovered by the Accounting Officer (AO) and the Auditor - General.

The AO must perform an investigation/enquiry to confirm the IE, official liable in law, amounts involved and if the state suffered any loss or damage

After the investigation/enquiry, the AO must immediately report in writing the irregular expenditure to the relevant treasury in terms of sec 38(1) (g) and in the case of a department, report the irregular expenditure in terms of Treasury Regulation 9.1.2 in the monthly report as required in terms of section 40(4)(b).

If the investigation reveals that there is an official liable in law for the irregular expenditure

The AO must raise a debt for the recovery of the IE, section 38(1)(c)(i) and institute disciplinary steps against that official in terms of section 38(1)(h)(iii)

If the debt is irrecoverable, then the AO may write off the IE in terms of Treasury regulation 11.4

If the investigation reveals that there is no official liable in law for the irregular expenditure

Then the AO may apply for condonation of irregular expenditure from the relevant authority

If the Irregular expenditure is not condoned by the relevant authority, then the AO may write off the IE by derecognizing from amounts not condoned not recoverable

GUIDELINE ON IRREGULAR EXPENDITURE

PROCEDURE FOR THE TREATMENT OF IRREGULAR EXPENDITURE ANNEXURE E

PUBLIC ENTITIES

Irregular expenditure discovered by the Accounting Authority (AA) and the Auditor - General.

The AA must perform an investigation/enquiry to confirm the IE, official liable in law, amounts involved and if the state suffered any loss or damage

After the investigation/enquiry, the AA must report the irregular expenditure in line with the entities policies and include particulars of any criminal or disciplinary steps taken as a consequence of such irregular expenditure in the annual report and financial statements for that financial year.

If the investigation reveals that there is an official liable in law for the irregular expenditure

The AA must raise a debt for the recovery of the IE section 51(1)(b)(i) and institute disciplinary steps against that official in terms of section 51(1)(e)(iii)

If the debt is irrecoverable, then the AA may write off the IE in terms of the public entity's policy

If the investigation reveals that there is no official liable in law for the irregular expenditure

Then the AA may apply for condonation of irregular expenditure from the relevant authority

If the Irregular expenditure is not condoned by the relevant authority, then the AA may write off the IE by derecognizing it in the notes to the financial statements from amounts not condoned not recoverable



national treasury

Department
National Treasury
REPUBLIC OF SOUTH AFRICA

CROSSWALK TO AMENDMENTS OF IRREGULAR EXPENDITURE GUIDELINE



Original Guideline on Irregular Expenditure Dated May 2014	Updated Guideline on Irregular Expenditure Dated April 2015	Rational
This guideline took effect in May 2014. no reference to a specific paragraph	This updated guideline takes effect in April 2015 paragraph 4	It was the view of the PFMA compliant institutions to include the effect take of the guideline as the principles contained therein may have an impact on the procedures of treatment of irregular expenditure
Provisions dealing with the State Tender Board Act, 1968 paragraph 4 to paragraph 13	This paragraph dealing with the status of the State Tender Board Act, 1968 Annexure A	This provision was moved to Annexure A as it does not affect the principles of irregular expenditure but remains relevant for information purposes as the State Tender

CROSSWALK TO AMENDMENTS OF IRREGULAR EXPENDITURE GUIDELINE

<u>Original</u> Guideline on Irregular Expenditure Dated May 2014	<u>Updated</u> Guideline on Irregular Expenditure Dated April 2015	Rational
		Board at the national level of government has since been disbanded and it is the intention to repeal the currently dormant State Tender Board Act, 1968 (Act No. 86 of 1968) when amendments are effected to the PFMA
Standards of Generally Accepted Accounting Practice paragraph 16	Removal of reference to Standards of Generally Accepted Accounting Practice (GAAP) paragraph 6	South African GAAP will no longer be available for use in respect of financial years commencing on or after 1 December 2012.
Non-compliance corrected prior to any payment being made will not result in any irregular expenditure. paragraph 14	This provision was illustrated in tabular format paragraph 7: Figure 7	To provide an illustration of non-compliance corrected prior to payment being made for all PFMA institutions in a tabular format indicating the relevant accounting standards applying to that institutions
Transgression of provision contained in paragraph 17(a)-(d)	Transgression of provision contained in paragraph 8 (a) - (e)	Paragraph 8(e) was added as a transgression of irregular expenditure may also emanate from "any other applicable legislation and not only from the regulatory framework listed previously in paragraph 17(a)-(d)
No reference to a specific paragraph	New paragraphs were included to indicate the following	Even though public entities

CROSSWALK TO AMENDMENTS OF IRREGULAR EXPENDITURE GUIDELINE

<u>Original</u> Guideline on Irregular Expenditure Dated May 2014	<u>Updated</u> Guideline on Irregular Expenditure Dated April 2015	Rational
<p>Accounting policy for irregular expenditure</p> <p>"Irregular expenditure must be removed from the notes when it is either</p> <p>(a) condoned by the National Treasury or the relevant authority;</p> <p>(b) it is transferred to receivables for recovery; or</p> <p>(c) it is not condoned and is irrecoverable.</p> <p>A receivable related to irregular expenditure is measured at the amount that is expected to be recovered and must be de-recognised when the receivable is settled or subsequently written off as irrecoverable."</p> <p>paragraph 27</p>	<p>"if a public entity listed in Schedules 3A and 3C to the PFMA exceed their budget, such a non-compliance will constitute irregular expenditure.</p> <p>paragraph 20 - 22</p> <p>Accounting policy for irregular expenditure</p> <p>"Irregular expenditure must be removed from the balance of the irregular expenditure notes when it is either</p> <p>(a) condoned by the relevant authority if no official was found to be liable in law;</p> <p>(b) recovered from an official liable in law;</p> <p>(c) written-off if its irrecoverable from an official liable in law (Debt is written off "against savings" if an official was found liable in law and a debtor was recorded for the recovery of such a debt.) or</p> <p>(d) written-off if it's not condoned and not recoverable." (Irregular expenditure is "NOT written off against savings" but de-recognised in the notes to the annual financial statements if a official of the institution was not found to be liable in law.)</p> <p>paragraph 24(d), paragraph 25 and paragraph 26 was added</p>	<p>listed in schedules 3A and 3C to the PFMA will not incur unauthorised expenditure when they overspend on their respective budgets, such an overspending must be recognized as irregular expenditure in the notes to the financial statements</p> <p>paragraph 22</p> <p>To allow for irregular expenditure that is not recoverable because no official was found to be liable in law for such a transgression and was also not condoned by the relevant authority to be de-recognised in the balance of the irregular expenditure note. The accounting officer or accounting authority must only de-recognise such irregular expenditure after complying with the controls indicated in paragraph 25(a)-(c)</p>

CROSSWALK TO AMENDMENTS OF IRREGULAR EXPENDITURE GUIDELINE

<u>Original</u> Guideline on Irregular Expenditure Dated May 2014	<u>Updated</u> Guideline on Irregular Expenditure Dated April 2015	Rational
<p>Procedures for treatment of irregular expenditure</p> <p>Procedures for the discovery, investigation and reporting of irregular expenditure Paragraph 30 (a)-(e)</p>	<p>Procedures for treatment of irregular expenditure</p> <p>This provision was split as follows:</p> <ul style="list-style-type: none"> ✚ Discovery of irregular expenditure- paragraph 27.1 ✚ Enquiry or investigation into the alleged irregular expenditure- paragraph 27.2 ✚ Confirmation and reporting of irregular expenditure- paragraph 27.3 	<p>The provisions as contained in the original guideline were split in the revised guideline to allow for proper flow of procedures.</p>
<p>Procedures for raising a receivable and the recovery of irregular expenditure paragraph 31 (a)-(f)</p>	<p>Provision of procedures for raising a receivable and the recovery of irregular expenditure was split as follows:</p> <ul style="list-style-type: none"> ✚ Recovery of irregular expenditure- paragraph 28.1 ✚ Determination of an official liable in law- paragraph 28.2 ✚ Recovery for irregular expenditure- paragraph 28.3 ✚ Irregular expenditure written off- paragraph 28.4 	<p>The provisions as contained in the original guideline were split in the revised guideline to allow for proper flow of procedures.</p>
<p>Paragraph 33 indicating the following:</p>	<p>Revised by paragraph 30 as follows:</p> <p>Annexure A : See footnote "2" on page 4 of the <u>Guideline on irregular expenditure</u> Annexure B illustrates a step by step process to the treatment of irregular expenditure Annexure C illustrates the accounting framework</p>	<p>New annexures were developed to provide more clarity on a step by step process to be followed when dealing irregular expenditure.</p>

CROSSWALK TO AMENDMENTS OF IRREGULAR EXPENDITURE GUIDELINE

Original Guideline on Irregular Expenditure Dated May 2014	Updated Guideline on Irregular Expenditure Dated April 2015	Rational
Annexure A illustrates procedures for the treatment of irregular expenditure by departments, trading entities, government components and constitutional institution	Annexure D: Procedures for treatment of IE for departments, government components, constitutional institutions and trading entities	
Annexure B illustrates procedures to be followed by public entities	Annexure E: Procedures for treatment of IE for public entities	
Annexure C illustrates examples for irregular expenditure	The new annexure will be issued as an addendum to the guideline due to the new reforms being developed on supply chain management.	
Annexure D illustrates example template for reporting of Irregular Expenditure	Annexure F: illustrates procedures to be followed by public entities	
Irregular expenditure register Paragraph 42, Annexure D	Irregular expenditure register Paragraph 42, Annexure F	Annexure D was revised by the new Annexure F
Contracts arranged by other institutions Paragraph 58, 59 and 60 were improved in the guideline by including the following new provisions in	Provisions dealing with contracts arranged by other institutions was split as follows: Paragraph 56	These provisions were improved by splitting and indicating which provisions as they apply at national level and

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Original Guideline on Irregular Expenditure Dated May 2014	Updated Guideline on Irregular Expenditure Dated April 2015	Rational
<p>the guideline:</p>	<p>Paragraph 57 Paragraph 58 <ul style="list-style-type: none"> ✦ Sub-paragraph 58.1 ✦ Sub-paragraph 58.2 ✦ Sub-paragraph 58.3 ✦ Sub-paragraph 58.4 </p> <p>Paragraph 59 Paragraph 60 Paragraph 61 <ul style="list-style-type: none"> ✦ Sub-paragraph- 61.1 ✦ Sub-paragraph- 61.2 ✦ Sub-paragraph- 61.3 ✦ Sub-paragraph- 61.4 </p>	<p>provincial level</p>