

MPUMALANGA PROVINCIAL GOVERNMENT



DEPARTMENT OF PUBLIC WORKS, ROADS AND TRANSPORT

Debts Management Policy

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1. ABBREVIATIONS AND DEFINITIONS

1.1. ABBREVIATIONS

PFMA	:	Public Finance Management Act
CFO	:	Chief Financial Officer
HOD	:	Head of Department
PR	:	Provincial Treasury
HR	:	Human Resource
TR	:	Treasury Regulation

1.2. DEFINITIONS

Debt	:	Money owed by any employee or institution to the
Department	:	Mpumalanga Department of Public Works, Roads and Transport
Internal Debtors	:	Any employee who owes the institution or Department

2. INTRODUCTION

Section 45 (b) and (c) of the PFMA places the onus on each official within a Department to be responsible for the effective, efficient, economical and transparent use of the financial and other resources within that official's area of responsibility.

3. OBJECTIVE

The purpose of the policy is to:

- 3.1. Provide uniform policy on the management and control of debts owed to the Department.



4. REGULATORY FRAMEWORK

- 4.1. Public Finance Management Act, Act no 1 of 1999
- 4.2. Treasury Regulation
- 4.3. Prescription Act 68 of 1969
- 4.4. National Credit Act 34 of 2005
- 4.5. Public Service Regulation Act

5. SCOPE OF APPLICATION

The policy applies to all external debtors, departmental employees especially those who have a formal administrative duty to manage and control departmental debts, including the recovery and write-off debts owed to the Department of Public Works, Roads and Transport.

6. POLICY STATEMENT

6.1. Guiding principles

The responsibility for management of debtors is assigned in terms of Section 38 (1) (c) (i) and (d) of the Public Finance Management Act as amended.

- 6.1.1. Treasury Regulation 11.2.1 states: The Accounting Officer of an institution must take effective and appropriate steps to timeously collect all money due to the institution including as necessary a debt must be recorded in the general ledger of the Department as soon as it is discovered.
- 6.1.2. Maintenance of proper accounts and records for all debtors, including amounts received in part payments.
- 6.1.3. Referral of a matter to the Departmental Legal Section to consider a legal demand and possible legal proceedings in a court of law.

6.2. Recognition of debts

Debts should be recognised where:

- 6.2.1. The State has suffered a loss or damage through an act of an official, where the person is still employed by the State.
- 6.2.2. A salary wage or allowance was erroneously paid to an employee.
- 6.2.3. An individual or company breached a contract.
- 6.2.4. An overpayment has been made to a creditor, institution etc.
- 6.2.5. An advance is paid or expenditure incurred on behalf of an employee and the employee defaults on the repayments.
- 6.2.6. A fruitless and wasteful expenditure has been disclosed on the annual financial statements and findings have been done to recover the money.

6.3. Classification

6.3.1. Simple debts [Non-interest bearing]

A simple debt is raised whenever a debt is non-interest bearing (Government Notice 1410 of 2002). Simple debts are usually settled within relatively short period (one year as determined by the Public Finance Management Act. The debts are restricted to the recovery of money from departmental officials and occur in cases such as:

6.3.1.1. Salary and related overpayments.

Debts which originated due to the action of officials, including and not limited to arrear contributions and damage to government vehicles. Fruitless and Wasteful expenditure as a result of fraudulent activities and it will depend on the nature of the findings

6.3.2. Complex debts [Interest bearing]

A complex debt is raised whenever a debt is interest bearing (Government Notice 1410 of 2002). Complex debts usually occur in cases such as: Interest will be charged according to the latest rates Gazetted as determined by the Minister of Finance.

6.3.2.1. Breach of Contract such as bursaries, lease agreements etc.

Wrongly granted remuneration, as defined in section 38 of the Public Service Act, 1994 where a person concerned has left the employment of the state or where the monetary advantage resulted from his or her own fraudulent action

Loss or damage which originates as a result of circumstances where bad faith was present

Fruitless and Wasteful expenditure as a result of financial misconduct and it will depend on the nature of the findings

6.4. INTEREST CALCULATIONS

Interest is calculated on the decreasing balance of the debt and may not be capitalized, nor may it exceed the original amount (refer to the "in duplum" principle)

6.5. DEBT RECOVERY

- 6.5.1. In terms of Section 38 (1) (i) of the Public Finance Management Act, the Accounting Officer for the Department must take effective and appropriate steps to collect all money due and owing the department.
- 6.5.2. The Department must effectively manage and control all debts and the following recovery procedure must be followed in the management of debts.
- 6.5.3. Debts owing to the State may at the discretion of the Accounting Officer be recovered by means of instalments, except in cases where the condition of payment are determined by law, agreement and provided that due cognizance are taken of the debtor's standing and financial position in determining the period of payment.
- 6.5.4. The debt must be recovered as soon as possible, at a maximum of 30% of net monthly salary, where net salary is defined as gross salary less statutory deduction.
- 6.5.5. When it appears that the state has suffered a loss or damage through an act of an employee, whether or not the person is still in the employment

of the State, the Accounting Officer must recover the value of the loss or damage from the person responsible.

- 6.5.6. An overpayment to creditors, institution or private entity and persons must be disallowed and recovered. Where regular payment is made to suppliers – the amount shall be recovered from the first subsequent payment.
- 6.5.7. An amount that is not legitimate charge against a vote account must immediately be disallowed and be recovered accordingly.

6.6. HANDING OVER THE DEBT TO LEGAL SECTION

- 6.6.1. In terms of paragraph 11.2.1 (b) of the Treasury Regulation, in cases where it's necessary and economical to enforce the recovery of the debt by means of Legal steps and after consultation with Legal Services.
- 6.6.2. The debt must be handed over to Legal Service after a period of 90 days after all appropriate steps to recover has been followed (except deceased ex-employees). The physical address of the debtor must be available when the matter is handed over to Legal Services for further investigation and recovery for the State.

6.7. WRITING OFF DEBTS AND PROVISION FOR BAD DEBTS

In terms of Section 11.4 of the Treasury Regulations Section 76 (1) (e) and 76 (4) (a) of the Public Finance Management Act any debt written off by the Accounting Officer may:

- 6.7.1. Only be written off after all reasonable steps have been taken to recover the debt.
- 6.7.2. Recovery of the debt would be uneconomical.
- 6.7.3. Recovery would cause undue hardship to debtor or his \ her dependants.
- 6.7.4. The amount must be disclosed in the Interim Financial Statements and the Annual Financial Statements, indicating the terms of which the debt was written off.
- 6.7.5. Debts that were not recovered from deceased employees, where their pension benefits have been finalized and recovery of the debts is not possible.

- 6.7.6. It would be to the advantage of the department to effect a settlement of the claim or to waive it.
- 6.7.7. The debtor has neither attachable assets nor income, or has no reasonable expectation of future income.
- 6.7.8. Debts are legally without merit.
- 6.7.9. It is not possible to collect any substantial amount.

6.8. DELEGATED AUTHORITY TO WRITE OFF DEBT

The Accounting Officer has delegated the write off of debts as per the Department's delegations.

7. ROLES AND RESPONSIBILITIES

Responsibility for the implementation of this policy rest with the Chief Financial Officer.

8. MONITORING AND EVALUATION

The Debtors section shall monitor the implementation of the policy and shall report any deviations to the Head of the Department in writing.

9. POLICY REVIEW

The policy shall be reviewed to factor in changes in legal frameworks, organisational development, political and economic trends, and envisaged outputs by the Medium Term Expenditure Framework as well as outcomes of monitoring and evaluation.

10. APPROVAL

APPROVED



KM MOHLASEDI
HEAD OF DEPARTMENT

DATE : 2010/11/12