



national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



CROSSWALK TO AMENDMENTS OF THE IRREGULAR EXPENDITURE FRAMEWORK

National Treasury Instruction 01 of 2018/2019 and National Treasury Instruction 02 of 2019/2020

National Treasury Instruction No. 01 of 2018/2019 (repealed) Irregular Expenditure Framework (original)	National Treasury Instruction No. 02 of 2019/2020 (in force) Irregular Expenditure Framework (amended)	Rational for Amendments
Chapter 1 definitions		
<u>Added</u>	In this Framework, any word or expression to which a meaning has been assigned in section 1 of the Public Finance Management Act (PFMA), Act No 1 of 1999, and regulations made in terms thereof, has the meaning so assigned,	To prevent misinterpretation of the law
“assessment” means a test conducted by a Loss Control Function or another relevant function to identify possible irregularities in transactions processed and to confirm the allegations of irregular expenditure;	<u>Added</u> a foot note explaining “another relevant function”	To provide more clarity
“checklist” means a list of non-compliance and alleged cases of irregular expenditure matters in progress;	<u>Amended</u> “checklist” means a list of transgressions and alleged cases of irregular expenditure that are in the process of being dealt with;	To indicate that these cases are not yet irregular expenditure but non-compliance cases that

National Treasury Instruction No. 01 of 2018/2019 (repealed) Irregular Expenditure Framework (original)	National Treasury Instruction No. 02 of 2019/2020 (in force) Irregular Expenditure Framework (amended)	Rational for Amendments
		awaits confirmation through assessment tests
“ department ” means a national or provincial department	<u>Removal</u> of definition of “department”	Definition of a department is defined in the PFMA
“ investigation ” means a formal probe conducted by a function performing investigations to analyse the particulars of non-compliance in order to establish the facts about the transaction related to any fraudulent, corrupt or criminal act	<u>Removal</u> of Internal Audit Function to perform investigations and rephrased as follows: “ investigation ” means a formal probe conducted by a function performing investigations to analyse the particulars of non-compliance in order to establish the facts about the transaction and to determine whether any fraudulent, corrupt or criminal act has taken place;	Accounting officer or accounting officer shall determine a function that will be capacitated to perform investigations related to cases of irregular expenditure
“ non-compliance ” means the failure to comply with a legal requirement or a legal obligation	<u>Removal</u> of legal obligation	Legal requirement and legal obligations bears the same meaning
“ relevant authority ” means 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 legislation that was transgressed,	<u>Amended as follows:</u> “ relevant authority ” means – (a) The National Treasury, in the case where an employee or the accounting officer of a national department or constitutional institution, or an employee or the accounting authority of a Schedule 2, 3A or 3B public entity, was responsible for irregular expenditure; and (b) The relevant provincial treasury, in the case where an employee or the accounting officer of a provincial department or an employee or the accounting authority of a Schedule 3C or 3D public entity, was responsible for the irregular expenditure.	This definition posed challenges as in some cases there relevant authority to condone would both be the policy department and the accounting officer/authority

National Treasury Instruction No. 01 of 2018/2019 (repealed) Irregular Expenditure Framework (original)	National Treasury Instruction No. 02 of 2019/2020 (in force) Irregular Expenditure Framework (amended)	Rational for Amendments
	Chapter 2 Purpose and application of the framework	
Paragraph 3 Effective date of the framework	Effective date of the framework was deleted and kept in National Treasury Instruction 02 of 2019/2020	Effective date of the framework is prescribed in Treasury Instruction 02 of 2019/2020
	Chapter 3 Definition and recognition of irregular expenditure	
Paragraph 5 The purpose of this Framework is to provide procedures to be followed by accounting officers and accounting authorities when dealing with irregular expenditure, defined in Section 1 of the Public Finance Management Act (PFMA), Act No 1 of 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.”	<u>Amended</u> as follows The purpose of this Framework is to provide procedures to be followed by accounting officers and accounting authorities when dealing with irregular expenditure.	
Paragraph 6 The definition of irregular expenditure extends over the term contravention of “any applicable legislation” as the	<u>Deleted</u> as the definition of irregular expenditure is defined in section 1 of the PFMA	Definition of irregular expenditure is defined in detail in section 1 of the PFMA

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term “contravention” must relate to the incurrence of a financial transaction by a department, constitutional institution or public entity		
Paragraph 10, Figure 1 Contravention of the legislation or <u>policies</u> referred to in paragraph 5 of this Framework	Replaced with paragraph 7 Any reference to policies was <u>deleted</u>	To align with the definition of irregular expenditure as defined in section 1 of the PFMA
Paragraph 11 (a) Figure 1 above indicates that for a transaction to constitute irregular expenditure it must meet the following conditions – (a) it must be incurred in contravention of the legislation or <u>policies</u> referred to in paragraph 5 of this Framework;	Replaced with paragraph 8 (a)	To align with the definition of irregular expenditure as defined in section 1 of the PFMA and remove reference to internal policies
	Chapter 4 determination and investigation of irregular expenditure	
Paragraph 14 This responsibility encompasses identifying all the legislative requirements which institutions must comply with, including implementation of <u>internal policies</u> which form an integral part of their internal control system that is designed to provide reasonable assurance that compliance is achieved	Amended as follows: This responsibility encompasses identifying the legislative universe which institutions must comply with.	To align with the definition of irregular expenditure as defined in section 1 of the PFMA and to also delete any reference to <u>internal policies</u>

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<p>Paragraph 24</p> <p>The determination test referred to in paragraph <u>22</u> above must be instituted within 30 days from the date that the irregular expenditure was reported to the accounting officer or accounting authority.</p>	<p>Amended as follows:</p> <p>The determination test referred to in paragraph <u>19</u> must commence within 30 days after the irregular expenditure was reported to the accounting officer or accounting authority.</p>	<p><u>Amended</u> to indicate the starting date for determination of irregular expenditure</p>
<p>Paragraph 25</p> <p>The accounting officer or accounting authority must conduct an investigation if he/she suspects any possibilities of fraudulent, corrupt or <u>criminal acts</u> emanating from the incurrence of irregular expenditure.</p>	<p><u>The word “criminal acts” was rephrased as “other criminal conduct”</u></p> <p>Criminal acts was amended to “other criminal conducts” throughout the framework</p>	<p>To broaden to other criminal conduct</p>
<p>Paragraph 28</p> <p>The investigation referred to in paragraph 25 above must be instituted within 30 days after it has been confirmed that irregular expenditure has been incurred.</p>	<p><u>Amended as follows:</u></p> <p>The investigation referred to in paragraph 22 must commence within 30 days after the determination test.</p>	<p><u>Amended</u> to indicate the starting date for investigation of irregular expenditure</p>
	<p>Chapter 5 recovery, condonation and removal of irregular expenditure</p>	
<p>Paragraph 44 was replaced with the new paragraph 41</p>	<p>New paragraph: Paragraph 41</p> <p>If the person responsible for the debt has left or is not in the employ of the department and denies liability for the debt, the accounting officer must</p>	<p>To include a process of recovery for persons that left the employ of the state</p>

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	refer the matter to the State Attorney to confirm the debtor's liability in law. In the case of a constitutional institution or public entity, the accounting officer or accounting authority may refer the matter to their in-house legal division, if applicable, or to an external legal service provider to confirm the debtor's liability in law.	
Paragraph 59 Condonation of irregular expenditure relating to the contravention of other applicable legislation must be forwarded to the National Treasury for attention of the Accountant-General.	<u>Deleted</u>	Aligned with the revised definition of relevant authority
Reference to <u>Law Enforcement Agencies</u> from in the Framework	<u>Replaced</u> with the wording "South African Police Service"	To the align the wording with the wording contained in the Treasury Regulations dealing with Financial Misconduct as contained in Treasury Regulations 4 and 33
	Chapter 6 discovery and reporting of irregular expenditure	
Paragraph 73 - 74 In year Monitoring and Reporting (IYM Reports)	<u>Amended</u> with paragraphs 68 to 71	To align with quarterly reporting for public entities as prescribed in National Treasury Instruction No. 2 of 2014/2015 for constitutional institutions

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		and national public entities; and Align reporting timeframe of provincial treasuries in accordance with their relevant provincial treasury instruction
	Chapter 7 reporting in the checklist and lead schedule	
<p>Paragraph 80 to 83</p> <p>80. The Modified Cash Standard provides disclosure requirements for the annual financial statements of departments and government components operating on a modified cash basis of accounting. Government components, constitutional institutions, trading entities and public entities</p> <p>81. The annual financial statement template must also be utilised by government components, trading entities, constitutional institutions and public entities operating on an accrual basis of accounting to disclose amounts of irregular expenditure.</p> <p>82. The accounting officer or accounting authority must ensure that only confirmed irregular expenditure is disclosed in the main note to the annual financial statements.</p>	Substituted with the Table in chapter 7	To provide for detailed disclosure in line with the Framework

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83. Irregular expenditure not confirmed or in the process of determination or investigation must be disclosed in the sub-note to the annual financial statements related to irregular expenditure.		

The end