

FREE STATE PROVINCE



LOSS CONTROL POLICY

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DEFINITION OF TERMS AND CONDITIONS

Case Type	the case type entity is used to describe the various types of losses which can occur;
Civil Case	is where the driver of the state vehicle is summonsed to court to give his side of the story as to how the incident happened;
Counter Claim	this is where a claim is instituted against the private party and it comes to light that both parties had contributing factors to the collision. The result may be 25/75% or 50/50% or each party must carry its own cost;
Criminal Case	is where the South African Police Services have summonsed the state driver to court. Head Office will then refer the matter to the state attorney for legal representation in court:
Damages	an act, instance, or consequence of breaking;
Fruitless Expenditure	means expenditure which was made in vain and would have been avoided had reasonable care been exercised;
Irregular Expenditure	Expenditure other than unauthorized that is not in accordance with the requirements of any applicable legislation including the PMFA;
Wasteful Expenditure Losses	reckless in the use of material resources means any material loss or damage or prejudice to the state or a said person and includes shortages, damages, fruitless or wasteful expenditure and payments;
Region	Every DC within the Department;
Reporting official	employee who identifies the loss and reports the case;
Thefts	Stealing of government property;
Loss Control Officer	Official responsible for the dealing and finalization of loss cases usually situated at Head Office;
Regional Loss Control Officer	Loss control sub – agents situated at regional offices will investigate reported cases and forward these to their loss control agent situated at head office;

1. INTRODUCTION

The Public Finance Management Act (PMFA Act NO 1 of 1999 as amended by Act no 29 of 1999) subject to the provisions of Treasury Regulation 12 clearly indicates that the state will bear its own damages and accident risks and be responsible for all claims and losses of state property where these arise from activities by an official who is liable in law and who is or was employed by the Department.

The responsibility of the Accounting Officer of the Department is to take responsibility to ensure that preventative measures are in place to prevent theft, misuse, wasteful and irregular expenditure and to protect the property of the Department of Agriculture.

2. REGULATORY FRAMEWORK

Losses in respect of state property, money, livestock and equipment are dealt with in accordance with the following Acts, Regulations, instructions and Circulars:

- The Public Finance Management Act 1999, Act 1 of 1999 (as amended by Act 29 of 1999)
- Chapter 12 of the National Treasury Regulations
- Financial Delegations
- Transport Circular 4 of 2000
- Transport Circular No 1 of 1992 (as amended by Transport Circular T118 of 1996)
- Departmental safeguarding of Assets policy;
- Departmental Transport Policy
- Departmental Cellphone Policy and
- Any other Act, Circular, Instruction or Regulation issued from time to time aimed to improve financial/asset control and to reduce losses within the Department of Agriculture.

3. OBJECTIVE

The policy is designed as a management tool to ensure effective, efficient, economical and transparent use of financial and other resources within the Department and to identify and define the responsibility and accountability of each official in the Department with regard to the utilization of the Department's property.

4. SCOPE

Loss Control is the task and responsibility of every employee, officer, responsibility manager or programme manager within the Department in order to implement and apply proper measures to protect Departmental Property and Assets.

5. MANAGEMENT OF LOSSES

5.1 DISTINCTION OF LOSSES

Treasury Regulation, Chapter 12 draw a distinction between the following kinds of activities resulting in losses; namely:

1) Claims against the state through acts or omissions (Section 76(1)(h) of the PMFA:

The Department have to accept liability for any loss or damage suffered by another person (as a claim against the state) which emanated from an act of omission of an official provided that any official will forfeit his/her state cover in terms of Paragraph 12.2.1 of the Treasury Regulations should the employee:

- (a) intentionally exceeded his or her powers;
- (b) made use of alcohol or drugs;
- (c) did not act in the course and scope of his or her employment;
- (d) acted recklessly or intentionally
- (e) where failure to comply to instructions lead to the loss

On receipt of a claim the agent should ensure that all relevant loss control documentation is on hand

If in doubt, the Accounting Officer of the institution must consult the State Attorney on questions of law with regard to the implementation of paragraph 12.2.1 of the Treasury Regulations.

Where an official has forfeited his or her cover in terms of paragraph 12.2.1 the amount paid by the Department for the loss, damage or claim arising from an act or omission must be recovered from the official concerned if the official is liable in law.

The Accounting Officer must determine in accordance with Sections 76(1)(b) and 76(4)(a) of the PMFA the amount of the loss or damage and, in writing, request that official to pay the amount within 30 days or in reasonable installments. If the official fails to comply with the request, the matter must be handed to the Debt Collection Section within 3 days after expiry date for recovery of the amount.

Registered cases emanated from acts committed by officials should be registered and finalized within 3 months and handed over to the Debt Collection Section.

2) Claims arising from the use of state vehicles

The Department has to accept liability for any loss or damage suffered by another person (as a claim against the state) which emanated from use of a state vehicle provided that any official will forfeit his/her state cover in terms of Paragraph 12.2.1 of the Treasury Regulations should the employee:

- (a) Used the vehicle without authorization
- (b) Did not possess a valid driver's licence or other appropriate licence;
- (c) Did not use the vehicle in the interest of the state
- (d) Allowed unauthorized persons to handle the vehicle; or
- (e) Deviated materially from the official journey or route without prior authorization
- (f) Made an admission that was detrimental to the state

On receipt of a claim the supervisor of the official must ensure that all following documents are included in the report before submitted to the Loss Control Officer:

- accident report; sketch plan; negligence report
- Trip authorization
- Application for official transport
- SAP case number
- Certified copy of driver's licence
- Supervisor's who suspect that a said person has been under the influence of intoxicating liquor or a narcotic drug during the collision, must obtain medical proof.

If in doubt, the Accounting Officer of the institution must consult the State Attorney on questions of law on the implementation of paragraph 12.2.1 of the Treasury Regulations.

Where an official has forfeited his or her cover in terms of paragraph 12.2.1 the amount paid by the Department for the loss, damage or claim arising from an accident must be recovered from the official concerned.

Where an official had not forfeits state cover the Department should pay the claim to the Private Party if recommended by the State Attorney. The loss control officer should prepare a submission to obtain authority to pay the claim to the claimant from the Head of the Department before payment can be processed.

3) Claims for excess payments of an insurance claim – subsidized vehicle

- (a) Claims by officials for payment of an excess/additional payment of an insurance claim *arising from the official use* of a subsidized vehicle are also regarded as losses and must be handled as such.

- (b) The claim must be lodged within 3 months of the date of the incident, failing of which such claim will not be considered.
- (c) No excess payouts will be considered where the vehicle was used for private purposes;
- (d) An excess payment will only be considered if the claim is accompanied by all the supportive documentation with emphasis to the accident report, police case number; Receipt of excess payment made to Insurer;
- (e) Payment of excess payment also applies in cases where vehicles are written-off after an accident

4) Claims by the state against other persons

- (i) If the state suffers a loss or damage and the other person denies liability, the accounting officer must, if deemed economical, refer the matter to the State Attorney for legal action, including the recovery of the value of the loss or damage.
- (ii) However in cases where a private vehicle was the sole cause of the damages sustained to the state vehicle the details provided by the third party must be verified with the Motor Licensing Bureau.
- (iii) It is important to have the vehicle repaired as soon as possible so that a claim can be instituted timeously as department's have three years from the date of the incident to institute a claim by the state via the Office of the State Attorney;
- (iv) If a division/directorate receives a claim the Loss Control officer should be informed immediately and furnished with full particulars of the claim and the incidents and the circumstance which gave rise to the claim, as well as statements of the said person and others in which relevant information is set out fully. The regional loss control officer will then forward the file to the Loss Control Officer situated at Head Office for referral to the State Attorney.

5) Claims by officials against the state

If an official sustains a loss or damage in the execution of official duties and is not compensated, the accounting officer may make good the loss or damage provided that that the official can prove such loss or damage.

6) Losses or damages through criminal acts or omissions

When it appears that the state has suffered losses or damages through criminal acts or possible criminal acts or omissions, the matter must be reported, in writing, to the accounting officer and the South African Police Service. (In case of

omissions, the matter must be reported, in writing to the accounting officer. Whether or not the person is still in the employ of the state)

The loss must then be registered with the Loss Control Officer within 5 working days.

In cases of criminal acts the following documents must be submitted to the loss Control Officer:

- Relevant correspondence and statements (statements must be relevant and complete as possible)
- SA Police case number. If available the progress made by the SA police.
- Series numbers of equipment
- Head of Component should specifically state whether, in their opinion, the said person retains or forfeit state cover. The reason for this conclusion must also be given, i.e. the instruction that was contravened.
- Previous offences by the officer or warnings directed to him should also be referred to if applicable.

On the grounds of the afore-mentioned information an investigation will always have be conducted should it appear or be suspected that the loss occurred as a result of criminal acts such as fraud, theft, arson, malicious damage, misbehaviour etc. irrespective of the amount involved;

7) Losses and damages through major and other unavoidable Causes

Losses and/or damages that have been occasioned by major and/or any other unavoidable cause/s shall immediately be reported to the Regional Loss Control Office who will forward the relevant documentation to the Departmental Loss Control Officer to be reported to the Accounting Officer.

Such losses/damages will be written off by the Accounting Officer provided that:-

- The amount of loss/damage is not written-off or the case disposed off before a through investigation has been carried out and it has been found that no act or omission by the said person or any other person contributed to the loss/damage, facilitated or aggravated it and that no said person or other person can be held liable for the full loss/damage or for part thereof or

If a said person or any other person can possibly be held liable for the loss or part of it, other provisions of paragraph 12 of the National Treasury Regulations are complied with.

(8) **OTHER LOSSES**

Losses related to programs, fruitless expenditure (payment of interest) and stock deficiencies are also dealt with as losses and must also be reported as such.

The following information/documents are necessary to handle these cases:

- a) Bank Statement of the organization/s involved
- b) Copies of cashed cheques
- c) Particulars (addresses, telephone numbers, ID number, etc) of individual members who service in the committee of the organization
- d) All other relevant documents such as contracts
- e) A summary of what happened
- f) Particulars of payment and if delayed for more than 30 days, particulars of official responsible for delay
- g) Statement from such an official outlining reasons for delay
- h) Comments/Recommendations by the Head of the Institution;

I. Fruitless Expenditure

When a fruitless expenditure arises the value must be determined and the amount must be registered with the Loss Control Officer. The amount must be debited against Fruitless Expenditure ledger Account on BAS and the outcome of the investigation conducted by the Loss control officer must be communicated to the Financial Control Officer responsible for the management of unauthorized, fruitless and wasteful expenditure.

II. Interest charged by suppliers for late payment of accounts delivered:

If claims for interest are received and they have to be paid such interest must be registered as a loss and should only be written-off if reported to Financial Control and a thorough investigation was conducted. Interest may only be written off as a loss after approval to such effect has been granted.

III Damages to Assets

Damage/Losses to all fixed assets must be registered as losses, even if the damage amounts to several millions of rands where the State is not insured, but bears its own risk.

Should the state suffer a loss, caused by, or arising from, damages to stores/equipment where repair cost is involved and the asset is repairable the damage should not be reported as a loss but where stores/ equipment

are irreparably damaged or totally destroyed a loss should be registered within 5 working days.

In cases of write-offs of movable assets the write-offs should be noted in the asset register.

5.2 PROCEDURE FOR HANDLING LOSSES

The procedure followed when dealing with various types of Losses is the same, i.e:

- All damages to and losses of assets must be accounted for in accordance with Treasury Regulation 12;
- LIABILITY has to be determined for all losses;
- Damages and losses must be investigated with a view to possible recovery;
- Surpluses must be taken on record as assets immediately.
- All losses/damages resulting from criminal or possible criminal actions must immediately be reported to the nearest South African Police Services.
- Where theft of State money/property including theft of mobile State implement is involved, the Director Procurement must immediately be informed;
- All losses must be reported to Head Office; Loss Control Division within 5 days of discovering such loss,

5.2.1 REPORTING OF LOSSES

5.2.1.1 Losses / Damages are not regarded as losses until reported as such. All offices must report all losses (including theft/damages/of State property) to their Regional Loss Control officer within 5 days. The Regional officer will register the loss on a form designed specifically for this purpose under the cover of a registration form.

5.2.1.2 The regional officer should report within 30 days after reported to the Loss Control Officer: Head Office and the registration form should be accompanied by:

- Statement from the official who discovered the loss/damage or who is responsible for the loss. Statement must specify who discovered the loss; who is accountable and etc.
- Statements from witnesses and supervisor
- Recommendation of the Head of the Office
- Quotations for repairs or replacement of such loss (at least 3)
- In cases of vehicle accidents all the relevant documentation must be attached.

5.2.2 REGISTRATION OF LOSSES BY THE LOSS CONTROL OFFICER

- 5.2.2. Every Office within the Department must keep registers for all losses reported within their region.
- 5.2.2.2 Region office will report new cases to the Head Office: Loss Control Officer who should record the loss in the Departmental Loss Control Register within 2 working days of receiving a report of such cases.
- 5.2.2.3 If notified of losses/damages/fruitless expenditure/claims these are to be handled in accordance with the prescripts of Treasury Regulation 12
- 5.2.2.4 The registration number allocated by the Loss Control Officer, must appear as file reference on all further correspondence. Regional officers must use their own file numbers together with the number obtained from the loss control officer on all correspondence.

5.2.3 REGISTRATION OF DAMAGE TO GOVERNMENT GARAGE VEHICLES

The Government Garage identified two types of incidents (Government Garage Circular no1 of 2006):

P51 cases: Cases where a third party is involved

GMT Cases: Cases where no third party is involved which include:

- ❖ Minor Damages to vehicles
- ❖ Stolen vehicles
- ❖ Damage parts of vehicles
- ❖ Engine, Ignition and Gearbox damage

No claims related to Government Garage vehicles will be considered as losses any more, provided that the official form the Department did not LOSE his/her state cover. No GMT cases or P51 cases limited to claims of R250 000.00 will be claimed by the Government Garage against the Department unless the claim exceeds R250 000.00. If the claim of damage exceeds R250 000.00 the case/accident must be reported as a loss with immediate effect.

IF STATE COVER WAS HOWEVER FORFEITED a claim will still be lodged against the Department and the incident must still be reported as a loss.

It is essential that Supervisors/Head of Sections/Transport officer see to it that all vehicle accidents are reported to the Government Garage with the information relating to the incident within 48 hours of the incident, otherwise the Department of Agriculture will be accountable for payment of the invoice.

5.2.4 RECOVERY OF LOSSES

5.2.4.1 In case of negligence, theft, criminal acts and etc, the Loss Control Officer will submit the case to the State Attorney with all supporting documentation and statements for his perusal.

5.2.4.2 The State Attorney will review the correspondence with regards to the case i.e. negligence reports, supervisors recommendation etc. and give an opinion to the loss control officer as to the recovery of the amount, on the grounds that the official has forfeited State Protection.

5.2.4.3 One letter of 'care' will be forward to the liable official to inform him that he/she has forfeited State Protection and that the damages are to be recovered from him after which the matter will be referred to the Accounting Officer;

5.2.4.4 In terms of Treasury Regulations for Departments issued in terms of the Public Finance Management Act of 1999, Section 12.7.1 and 2;

"Losses or damages suffered by an institution because of an act committed or omitted by an official, must be recovered from such official if he or she is liable in law; and

The Accounting Officer must determine the amount of the loss or damage and, in writing request that official to pay back within 30 days or in reasonable instalments. If the official fails to comply with the request, the matter must be handed to the State Attorney for the recovery of the loss or damage."

In terms of Treasury Regulation 6.2 the deduction may not exceed one- fourth of their salary, unless such a person agrees, in writing, that a larger amount may be deducted.

Unless otherwise prescribed, debts owing to the state (except cases where the conditions of payment are determined by law, agreement etc) may at the discretion of the accounting officers be recovered by means of installments, without reference to the Treasury, provided that: -

- (a) due cognizance is taken of the debtors standing and financial position in determining the period of repayment, and
- (b) the debt is extinguished within a period of 12 months except within a period of 12 months except where the debt is recovered by the State Attorney.

5.2.5 WRITE-OFF OF LOSSES

- 5.2.5. In terms of Section 76(1)(e) of the PMFA read with Treasury Regulation 11.4.1 and Financial Delegation 23 – the power of approval is vested with the Accounting Officer.
- 5.2.5.2 Before a submission is forward for write-off of a Departmental loss the Loss Control officer must ensure him/her that the relevant Departmental Debt Write-off Policy in terms of Treasury Regulation 11.4.2 was adhered to.
- 5.2.5.3 No journal for write-off should be compiled and authorized before receipt of the authorised submission for the write-off from the Accounting Officer or delegated official in terms of the Department's Financial Delegations.
- 5.2.5.4 Theft and Losses must be dealt with by applying savings/underspending realized from other programmes and journalized/allocated according to the specifications of Provincial Accountant General Circular: Accounting A8 of 2004/2005.
- 5.2.5.5 All cases where thefts and losses are written off must be recorded in a register. The submission / document, which was used to obtain approval according to the delegations, must be kept for audit purposes. This register will be utilized for the compiling of Financial Statements.

6. ROLES AND RESPONSIBILITIES

PERSON RESPONSIBLE	RESPONSIBILITIES
Accounting Officer	<ul style="list-style-type: none">❖ Implement preventative mechanisms to eliminate theft, losses, wastage and misuse of assets❖ Authorize implementation of recovery and write-off of irrecoverable losses where officials had not forfeited state cover.
Regional Loss Control Officer	<ul style="list-style-type: none">❖ Deal with all aspects of losses, in so far as co-ordinating all the documentation from the relevant responsible officials and ensuring that cases reported within his/her region are reported to the Head Office: Loss control Officer within 5 days.❖ Make recommendations regarding loss cases;

	<ul style="list-style-type: none"> ❖ Update and maintain manual registers and files in the region; ❖ Attend to incoming correspondence and follow up on files which have been pended for specific deadline dates whilst waiting for outstanding documentation; ❖ Sign correspondence; ❖ Ensure that accidents and where criminal or possible criminal acts are involved/suspected immediately be reported to SAPD ❖ Ensure that a checklist for information/documents furnished for a loss is kept and fully completed for every case reported/registered.
Loss Control Officer	<p>An Loss Control officer is appointed by the Accounting officer in terms of section 44(1) of the Act, to perform functions related to the Management of Claims and losses which include:</p> <ul style="list-style-type: none"> ❖ Obtaining all particulars, statements, etc. regarding claims and/or losses. ❖ Record and maintain losses in a loss control register ❖ Following up and finalizing loss cases and attend to incoming correspondence ❖ Liaising with the Office of the State Attorney ❖ Liaising with the SAPD ❖ Referral to the Liability Committee ❖ Draw directives, instructions to periodically draw the attention of all persons to the fact that all possible efforts are continually made to prevent claims arising against the Department ❖ Monthly reporting of losses in summary/reconciliation format to the CFO ❖ Ad-hoc inspections at region offices
Liability Committee	<p>Departmental Liability committee is established at Head Office with its members appointed by the Accounting Officer.</p> <p>The committee shall be responsible for the following functions:</p>

	<ul style="list-style-type: none"> ❖ Handling all losses through omissions by officials; ❖ Handling all other losses referred to it by the Loss Control Division; ❖ Making recommendations to the Accounting Officer regarding all losses handled by it.
State Attorney	<ul style="list-style-type: none"> ❖ Receipt of instruction from Department. ❖ Decide whether to act or to give an opinion with regard to: <ul style="list-style-type: none"> - Claims lodged by third parties against various departments - Forfeiture of state cover - Taking of legal action where problems are encountered in recovering of money in cases where state cover was forfeited.
SAPD	<ul style="list-style-type: none"> ❖ When it appears that state has suffered losses or damages through criminal acts or omissions, the matter must be reported, in writing to the accounting officer and the SAPD (Section 76(1)) of the PFMA.

7. RESOURCE IMPLEMENTATION

Each and every official shall be responsible for the safeguarding of assets in his working environment/ region or assets e.g. lap-tops, computers assigned to him/her.

Each and every official in the Department of Agriculture shall therefore be responsible fro the implementation, monitoring and evaluation of the loss control policy in conjunction with the safeguarding of assets policy.

Senior Managers must take note of cost implications of the approved policy that should be borne by the respective divisions.

The following items need to be budgeted for the policy implementation:

- i. Computers and Printers (Financial Accounting – HO and region
- ii. Gear locks in vehicles and alarm systems where needed
- iii. Burglar proofing

- iv. Capital: Filling Cabinets
- v. Stationary: e.g. files; Paper and etc
- vi. Transport cost to visit region loss control official's
- vii. Personnel cost

8. DEPARTMENTAL CONTROL MEASURERS

Millions of rands are caught up in the Departmental stock and equipment. It is therefore of the utmost importance for the Department to have a proper asset control and loss control system and policy in place to ensure appropriate control over the utilization of these assets.

The under-mentioned control measurers should be adhered to by each and every official within the Department to ensure that state cover is not forfeited. Any official who do not adhere to the stipulations set out in the policy will lose his/her state cover and will be held accountable for any loss/claim or damage originated from non-adherence:

- When a loss is reported to a supervisor the loss should be handled according to Treasury Regulations, the safeguarding of Asset Policy and the loss control Policy and registered to the Region Loss control Officer within 3 working days.
- There is a distressing quantity of cases reported where losses have occurred due to negligence, theft or misuse of state assets where the responsible official don't forfeit state cover due to technical steps that were not conducted correctly. The following control measurers are therefore included in the policy for adherence to ensure that responsible official's can be held liable for non-adherence, which include:
 - ❖ Proper investigations should be conducted by the Regional Loss Control Officer before reported to the Departmental Loss Control Officer for referral to the State Attorney;
 - ❖ Only 3 days may lapse between the actual happening and the reporting of the loss to the loss control regional officer. The investigation must be conducted within 3 weeks after the happening of the incident.
 - ❖ Supervisors of liable officials must get involved by supplying sufficient affidavits with factual information within 7 days after the incident.
 - ❖ Officials must take note of their responsibilities as prescribed in the PMFA, Treasury Regulations, Departmental Transport Policy, Loss Control Policy and Asset Management Policy.
- The prevention of losses should received priority attention by each and every official within the Department and the following safety and precautionary measurers should be implemented to ensure the safe-keeping of assets:
 - ❖ Gearlocks in Government vehicles
 - ❖ Garden and other equipment must be locked away when not in use because they can be used to break into buildings.

- ❖ Lock away calculators, which are not in use.
- ❖ Ensure that delivered stock is calculated and safely stored.
- ❖ Supply timely training to new appointees with regard to safekeeping of assets.
- ❖ Adhere to the safekeeping of assets policy with regard to the handling and safekeeping of personal issues such as cellular phones, laptops, bleeper's etc.
- ❖ Ensure the safekeeping of training equipment and the issue thereof by register.
- ❖ Ensure the safekeeping of all computer equipment.
- ❖ Ensure that all windows are on chipped and the doors are locked before leaving the premises. Under no circumstances must keys be left in the inside doors.
- ❖ Make sure a fire extinguisher is available and staff now how to use it.

9. MONITORING AND EVALUATION

Bi-annual inspections shall be conducted at all regional offices by the Loss Control Officer to ensure compliance to the PMFA, Treasury Regulations as well as the Asset Management, Transport and Loss Control Policies. .

9.1 Loss Control register

Loss control registers must be kept at Head Office as well as outside offices. The registers must be available for audit purposes and must be checked periodically , preferably monthly, by the relevant supervisors.

9.2 Write-off file

All cases where thefts and losses are written off must be recorded in a register. The submission which was used to obtain approval according the financial delegations, must be kept for audit purposes. The register will be utilized for the compiling of Financial Statements.

9.3 Monthly loss control reconciliations

The Directorate is responsible to submit reconciliations on a monthly bases to the Director; Financial Management and Accounting to enable the Directorate to monitor the status of the losses.

9.4 Monthly compliance certificate to Treasury

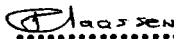
The Directorate must supply Treasury monthly with a updated schedule on the handling of registered losses and the referral thereof to the Office of the State Attorney.

10. POLICY REVIEW

The policy shall be assessed annually from the effective date to determine it's effectiveness. The policy may be assessed before that time as necessary to reflect substantial organization etc. change at the Department or any change required by law.

RECOMMENDATION & APPROVALS

COMMENTS:


.....
DIRECTOR:
FINANCIAL MANAGEMENT

.....14/3/2007.....
DATE

Recommended/Not Recommended


COMMENTS:


.....

.....23/4/07.....
DATE

Approved/Not approved

COMMENTS:


.....
ACCOUNTING OFFICER

.....04/05/2007.....
DATE