

## **PART 28 – LOSSES, DEFICIENCIES AND OVERPAYMENT OF MONEYS**

### **DIVISION 1 - GENERAL**

1. This Part sets out the procedure for dealing with losses and deficiencies of public moneys and irrecoverable amounts of revenue, debt and overpayment.
2. In this Part, "**Loss or deficiency of public moneys**" is a physical loss by an accountable officer of any legal tender, negotiable instrument or any other cash value with a monetary designation, which can be readily converted to cash, for example, notes, postal orders, money orders, and other negotiable instrument.
3. Delegation to Write-Off

The Minister for Finance and Treasury or the Departmental Head of the Department responsible for financial management may write off:

Losses or deficiencies of public moneys - S 108 (a)

Irrecoverable amounts of revenue - S 108 (b)

Irrecoverable debts and overpayments - S 108 (c)

He has, however, delegated these powers and the authorities holding such delegation and the limits to their delegation are set out in Appendix I.

### **DIVISION 2 - LOSSES AND DEFICIENCIES OF MONEYS AND OVERPAYMENTS**

4. Liability in Respect of Losses or Deficiencies
  - 4.1 Where there has been a loss or deficiency of public moneys due to misappropriation or fraud, the Department should make every effort to recover in full such losses or deficiencies from the person responsible either by cash payment and/or withholding moneys due, as soon as the loss is known.
  - 4.2 Where there has been a loss or deficiency of public moneys, not due to misappropriation or fraud, the person responsible shall be advised that he is liable for the full amount of the loss, subject to any relief granted under the provisions of paragraph 12 below.
  - 4.3 If relief is not granted, the full amount of the loss shall be recovered. Where relief is applied for, arrangements shall be made for the following amounts to be made good initially:
    - (i) Where the loss or deficiency is K50 or less, the whole amount;

- (ii) Where the loss or deficiency exceeds K50 but does not exceed K100 the amount of K50;
- (iii) Where the loss or deficiency exceeds K100, fifty toea for each Kina making up the loss or deficiency.

Appropriate adjustments shall be made as soon as a decision has been taken under paragraph 11 below. The Departmental Head or an Officer appointed by him for the purpose, may approve payment by instalments, but payments shall begin no later than the next pay day.

## 5. Prosecutions

An undertaking not to prosecute a person if he makes a restitution shall never be given by a department. It is an offence against the law to compound a felony by agreeing not to prosecute the person who committed the felony if he does a certain thing. So also it is highly objectionable to promise a person, who has contravened the law, immunity from prosecution if he does a certain thing as, for example, makes restitution.

## 6. Surcharge or Court Order to make Good

In every case involving the loss of Government property including money, the Department should consider in consultation with the State Solicitor, what action should be taken. If this action is unsuccessful or if criminal action is not taken, the Department should look at the further remedy of surcharge, or if it is not proceeded with, further legal action if the State Solicitor considers it appropriate. If criminal action is proceeded with, every effort should be made to seek an order for restitution.

## 7. Overpayment of Salary and Allowances

The following procedure is to be observed by Departments in the event of an overpayment of salary and allowances.

- (a) Where an overpayment of salary or allowance has occurred through miscalculation or machine error, or clearly a mistake in the application of an **Act, Regulation, or Public Service General Orders**, the overpayment is recoverable and the Department should proceed to take recovery action immediately.
- (b) Where an overpayment of salary or allowance is alleged to have occurred for any other reason and the officer or employee disputes the matter or the Department itself is doubtful whether the overpayment is recoverable, all the relevant facts shall be referred to the Department of Finance (Accounting Framework and Standard

Division) who will seek legal advice, if necessary, before any recovery action is taken.

- (c) Overpayments which are deemed to be recoverable and which have been received in good faith shall be recovered in full if the overpayment has not continued beyond twelve months. If the overpayment has continued beyond twelve months, the amount overpaid for the last twelve months alone shall be recovered. Cases of hardship can be reviewed by an officer vested with the power for write-off or the Department of Finance.
- (d) Overpayments which are deemed to be recoverable and which have been received in bad faith, (i.e., where the recipient had reason to know he was being overpaid), shall not be waived but shall be recovered in full.
- (e) Where an overpayment has been established the following procedures shall be followed by Departments:
  - (i) A formal letter of demand is to be issued to the officer overpaid asking him either to refund the amount or agree to recovery by instalments from his salary.

Where recovery is by instalment, each instalment should be not less than 10% of net salary and the number of instalments should not exceed 18 paydays.

- (ii) If no reply is received within seven days or a reasonable period after issue of the letter or a letter is received but without offering satisfactory repayment arrangements or the officer refuses to allow deductions to be made from salary, particulars are to be sent by the Department Staff or Salaries Section to the State Solicitor for recovery to commence by legal action.
  - (iii) In the case of legal action for recovery of debts caused by defalcation, details are likewise to be sent to the State Solicitor, advising him to commence recovery.
  - (iv) In both cases it will be necessary to advise the State Solicitor, the following details:

been discharged from bankruptcy, the liquidation of the company has been finalised or advice has been received from an **Official Receiver of Trustee in Bankruptcy or from a Liquidator** in the winding up of a company that no further distribution is likely.

- (d) If an overpayment has been made against a head of expenditure and is irrecoverable, the overpayment may remain a debit to that head of expenditure. If the accounts of the year are closed, no useful purpose will be served by making adjusting entries.

10. **Procedure for Other Irregular Payments.**

Unless otherwise directed by the Secretary for Finance, the provision of paragraph 13 and 14 shall also apply to:

- (a) an irregular payment which has not been immediately recovered;
- (b) an overpayment due to a breakdown in procedure;
- (c) an overpayment due to arithmetical error which cannot be recovered from moneys due, or known to be due in the future to the payee, and which is not recovered within a period of four weeks from the date of discovery of the overpayment;
- (d) a loss of revenue occasioned by the non-collection of an amount which is determined to be due to the Government under a law, regulation or a decision by the appropriate authority; and
- (e) a non-collection or under-collection of an amount which is due and not recovered within a period of four weeks from date of discovery.

**DIVISION 3 - RECOVERY OF LOSSES FROM OFFICERS OR EMPLOYEES**

11. Recovery from Refunds of Superannuation or Benefit Funds

If, despite Departmental requests, an officer or employee (including a member of the Defence Force) who is a contributor under the State Services and Statutory Authorities Superannuation Act, or the Papua New Guinea Defence Retirement Benefits Act has failed to repay to the Government sums misappropriated, deficiencies of cash, overpayments of salary and such like, and he is resigning or being dismissed or retrenched from the service, then the Department shall:

- (a) obtain from the contributor a completed application form for refund of contributions together with an order, authorizing the State Services and Statutory Authorities Superannuation Board or Retirement and Benefits Funds, as the case may be, to pay to the Department the amount of the contributions, or so much thereof as will cover the debt;

been discharged from bankruptcy, the liquidation of the company has been finalised or advice has been received from an **Official Receiver of Trustee in Bankruptcy or from a Liquidator** in the winding up of a company that no further distribution is likely.

- (d) If an overpayment has been made against a head of expenditure and is irrecoverable, the overpayment may remain a debit to that head of expenditure. If the accounts of the year are closed, no useful purpose will be served by making adjusting entries.

#### **10. Procedure for Other Irregular Payments.**

Unless otherwise directed by the Secretary for Finance, the provision of paragraph 13 and 14 shall also apply to:

- (a) an irregular payment which has not been immediately recovered;
- (b) an overpayment due to a breakdown in procedure;
- (c) an overpayment due to arithmetical error which cannot be recovered from moneys due, or known to be due in the future to the payee, and which is not recovered within a period of four weeks from the date of discovery of the overpayment;
- (d) a loss of revenue occasioned by the non-collection of an amount which is determined to be due to the Government under a law, regulation or a decision by the appropriate authority; and
- (e) a non-collection or under-collection of an amount which is due and not recovered within a period of four weeks from date of discovery.

### **DIVISION 3 - RECOVERY OF LOSSES FROM OFFICERS OR EMPLOYEES**

#### **11. Recovery from Refunds of Superannuation or Benefit Funds**

If, despite Departmental requests, an officer or employee (including a member of the Defence Force) who is a contributor under the State Services and Statutory Authorities Superannuation Act, or the Papua New Guinea Defence Retirement Benefits Act has failed to repay to the Government sums misappropriated, deficiencies of cash, overpayments of salary and such like, and he is resigning or being dismissed or retrenched from the service, then the Department shall:

- (a) obtain from the contributor a completed application form for refund of contributions together with an order, authorizing the State Services and Statutory Authorities Superannuation Board or Retirement and Benefits Funds, as the case may be, to pay to the Department the amount of the contributions, or so much thereof as will cover the debt;

- (b) if the contributor completes an application form for refund of contributions, but refuses to sign the Order referred to in (a), forward the application form to the State Services and Statutory Authorities Superannuation Board or Retirement and Benefits Funds with full details of the case and a request that payment be made to the Department;
- (c) if a complete application form cannot be obtained from the contributor, fill-in the form as appropriate and forward it to the State Services and Statutory Authorities Superannuation Board or Retirement and Benefits Funds with full details of the case and a request that payment be made to the Department;

Before action is taken to seek recovery of the debt in whole or in part from the State Services and Statutory Authorities Superannuation Board or Defence Retirement and Benefits Funds, Departments should ensure that proper evidence is available to support the Government's claim for the debt owing to it;

- (d) When a refund of contributions has been made to a Department by the State Services and Statutory Authorities Superannuation Board or Defence Retirement and Benefits Funds, the balance due to the contributor, after deducting the amount owing to the Government, should be paid without delay.

## 12. Losses or Deficiencies - Applications for Relief by Officers or Employees

The following conditions are prescribed for general application:

- (a) any officer or employee having caused a loss or deficiency in public moneys may make application for alleviation or discharge from the liability;
- (b) any such application shall be made by the officer or employee to the Departmental Head through his immediate superior officer and shall set out the amount of the loss or deficiency and any explanation he may desire to offer;
- (c) the application shall be considered by a Committee of three officers two of whom shall be appointed by the Departmental Head or an officer authorised by him for the purpose, one being the Head of the Branch in which the officer or employee is employed, or his representative. The Chairman shall be a senior officer from the Department of Finance. An officer of another department is not prevented from being a member of the Committee if circumstances warrant such an appointment.
- (d) the Committee shall take into consideration the circumstances of the loss or deficiency, the record of the officer or employee and the

amount of loss or deficiency and any amount recovered or any compensatory payment made by the officer in regard to the loss or deficiency.

- (e) the Committee shall report the facts and recommend to the Departmental Head with a copy to the Secretary for Finance the amount of the loss or deficiency which it considers should be borne by the officer or employee.

#### **DIVISION 4 - REPORTING AND RECORDING**

##### **13. Reporting and Writing Off**

As soon as losses or deficiencies of public moneys are noticed, the following action shall be taken:

- (i) *If theft, robbery or fraud is suspected:*
  - (a) Report to the Police and request for an investigation as soon as possible.
  - (b) Advise the Auditor-General and the Chief Inspector, Department of Treasury as soon as it becomes known.
  - (c) Within 14 days of the occurrence of the loss, submit a complete report to the Auditor General and the Chief Inspector, Department of Treasury (see Appendix II)
- (ii) *In other cases:*
  - (a) losses and deficiencies up to K100.  
Advise the Auditor-General and Department of Finance.
  - (b) losses and deficiencies exceeding K100.
    - (i) *Advise the Auditor General and Chief Inspector, Department of Treasury as soon as possible.*
    - (ii) *Within 14 days of the occurrence of the loss, submit a report to the Auditor General and the Chief Inspector, Department of Treasury. (see Appendix II)*
    - (iii) *After taking all other necessary action submit a report, with appropriate recommendations to the Department of Treasury for decision; (see Appendix II).*

#### **14. Register Of Losses**

All losses and deficiencies of public moneys and irrecoverable amounts of revenue, debts and overpayments shall be suitably and briefly recorded in a Register of Losses kept for the purpose, to include:

- (a) gross value of losses or deficiencies or irrecoverable amounts of revenue, debts and overpayments (to be entered as soon as the losses or deficiencies are known);
- (b) date losses advised to the Auditor General and the Chief Inspector (see paragraph 13);
- (c) date of Report submitted to the Auditor General and the Chief Inspector (see paragraph 13);
- (d) date of Report to the Department of Treasury,
- (e) amount recovered;
- (f) amount written off;
- (g) authority for adjustment;
- (h) advice of any defects in the internal control system, and if so, a reference to remedial action taken;

Soon after the close of the financial year an extract of the Register of Losses for that year shall be sent to the Chief Inspector, Department of Treasury. If no losses are detected, a NIL return shall be submitted to the Chief Inspector.

#### **15. Accounting for a Loss or Deficiency**

Losses or deficiencies of public moneys generally will be charged to an appropriation provided by the Department of Treasury. Where the loss or deficiency concerns moneys which should be credited to a revenue account or have been charged to an expenditure account, the Secretary for Treasury may direct that the loss or deficiency shall be carried by that account.



**APPENDIX I (Paragraph 3) - DELEGATION OF POWERS TO WRITE-OFF**

The following are delegated powers of write-off for any one case

**1. LOSSES OR DEFICIENCIES OF PUBLIC MONEYS**

- (a) Arising from theft, robbery, fraud or other cases.
  - (i) First Assistant Secretary (Public Accounts)= K 5,000  
Department of Finance
  - (ii) Departmental Head of any Department = K 3,000

**2. IRRECOVERABLE REVENUES - DEBTS AND OVERPAYMENTS**

- (a) Commissioner General = K50,000
- (b) Commissioner = K20,000
- (c) Assistant Commissioner = K10,000
- (d) Loans, Revenue & Debt Management = K 5,000
- (e) First Assistant Secretary (Public Accounts) Department of Finance  
= K 5,000
- (f) Departmental Head of any Department = K 3,000
- (g) Provincial Treasurer = K 1,000

**NOTE**

Where write-off sought exceeds delegated limits shown above, a submission should be made to the Secretary for Finance who has been given unlimited power for the above purposes under **Section 108 of the Public Finances (Management) Act**.

**APPENDIX II (Paragraph 13) - LOSS REPORT - I**

DEPARTMENT OF .....

Report No: .....

Division/Branch .....

Reference: .....

Date: .....

- 
1. Nature and amount of the Loss: (state whether theft, misappropriation, fraud, negligence etc.).
  2. Division/Branch/Location where the loss occurred.
  3. Date or period when the loss occurred or discovered.
  4. Brief report on the circumstances leading to the loss indicate how the loss was facilitated.
  5. Name of officer(s) directly responsible for the loss.
  6. Names of other officer(s) indirectly involved. How were these officer(s) involved?
  7. Name and designation of supervising officer(s).
  8. What form of controls exists to prevent losses of the nature reported?
  9. Are the controls stated in 8 above being exercised effectively? If not state reasons for the breakdown.
  10. Have the police been informed? If not are there any reasons, why? If the police have been informed, a copy of the Report should be submitted, when available.
  11. Has any officer been convicted by the court? Please provide details and a copy of the court order when received.
  12. Has an order for Restitution been sought from the court? Please provide details.
- 

Division/Branch Head.....

Secretary .....

Department of

Department of

Date:

Date:

**DISTRIBUTION:**

1. Auditor General
2. Chief Inspector, Department of Treasury, P O Box 1983, Boroko
3. File

**APPENDIX III (Paragraph 13) - LOSS REPORT - II**

DEPARTMENT OF .....

Report No: .....

Division/Branch .....

Reference: .....

Date: .....

---

**PART A**

A copy of the Inquiring Officer's report relating to the loss reported on\_\_\_\_\_ is attached. After careful consideration and taking into account all circumstances of the case the following action is recommended. (e.g. Full/Instalment recovery, write-off, surcharge, disciplinary action etc).

.....

---

**PART B**

Approved/Not Approved as amended below.

.....  
COMPETENT AUTHORITY

---

**PART C**

1. Has the Officer applied for relief?
2. Where applicable has the matter been referred to the Departmental Head or in more serious cases, Department of Personnel Management to initiate disciplinary action?
3. Where applicable state what action is taken to recover the loss?
4. Where applicable state what accounting action has been taken.

.....  
ASSISTANT SECRETARY  
(ADMINISTRATION)**DISTRIBUTION**

1. Auditor General
2. Chief Inspector, Department of Treasury, P O Box 1983, Boroko.
3. File