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Environment & Nature Conservation  
NORTHERN CAPE PROVINCE  
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# DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION

## CONTINGENT LIABILITIES POLICY 27 SEPTEMBER 2011 FINANCIAL MANAGEMENT UNIT POLICY

*A PROSPEROUS AND EQUITABLE SOCIETY LIVING IN HARMONY WITH OUR NATURAL RESOURCES*

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## 1. CONCEPTUAL BACKGROUND

### 1.1 INTRODUCTION

This policy outlines the identification, treatment, recording and disclosure of contingent liabilities of the department according to the requirements of the PFMA

In terms of section 38(1) (d) of the PFMA and section 13.1.4 of the Treasury Regulations The accounting officer of a department is responsible for the management, including the safe-guarding and the maintenance of the assets, *and for the management of the liabilities*, of the department.

The accounting officer must report on all known contingent liabilities of the department in its annual report.

#### DEFINITION

#### CONTINGENT LIABILITIES

A contingent liability is a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the department; or

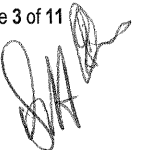
A contingent liability is a present obligation that arises from past events but is not recognised because:

- It is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or
- The amount of the obligation cannot be measured with sufficient reliability.

### 1.2 LEGISLATIVE REQUIREMENTS

The following regulatory framework exists:

- Section 40 & 76 of the Public Finance Management Act, (Act No 1 of 1999)
- Treasury Regulations 12 and 22
- Regulations 18 issued in terms of the SA Police Service Act, (Act No 68 of 1995)
- Section 57 of the SA Police Service Act (Act No 68 of 1995)
- Apportionment of Damages Act, 1956 (Act No 34 of 1956)



## **2. POLICY STATEMENT AND APPLICATION SCOPE**

### **2.1 POLICY STATEMENT**

The objectives of the policy include -

- emphasising the accountability of employees for Departmental resources;
- ensuring that employees have a clear and comprehensive understanding of the procedures they must follow;
- ensuring that resources made available to employees are utilised efficiently, effectively, economically and for authorised official purposes; and ensuring that the Department's resources are managed in compliance with the Public Finance Management Act, the Treasury Regulations and other relevant legislation
- ensure that contingent liabilities are detected, processed and recorded accurately in the annual financial statements.
- identify the circumstances in which contingent liabilities are recognised, measured and disclosed in the annual financial statements.
- to ensure that information on contingent liabilities in the notes to the financial statements to enable users to understand their nature, timing and amount.
- To outline the procedures for the treatment of contingent liabilities

### **RECOGNITION**

#### **Accounting policy**

Contingent liabilities are included in the disclosure notes to the financial statements.

A contingent liability is disclosed, as required by paragraph 110 of GRAP, unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

### **PROCEDURES**

A liability is a present obligation arising from past events, the settlement of which is expected to result in an outflow on resources embodying economic benefits or service potential.

There are two types of obligations:

- A legal obligation is an obligation that derives from a contract (through its explicit or implicit terms, legislation or other operation of law).
- A constructive obligation is an obligation that derives from the department's actions that have created a valid expectation on the part of other parties that it will discharge those responsibilities. This valid expectation could arise as a result of an established pattern of past practice, published policies or sufficiently specific current statement indicating that the department will accept certain responsibilities.



To understand a contingent liability it is important to first understand the concept of a liability.

In an accrual environment, a liability is recognised when it is either **virtually certain** or **probable (more likely than not)** that the department has a present obligation, the settlement of which will require an outflow of economic benefits or service potential from the department.

A contingent liability is disclosed when it is **possible** that economic benefits will flow from the department, or when an outflow of economic benefits or service potential is probable but cannot be measured reliably.

*This concept is illustrated in the table below:*

Liabilities	Outflow of economic benefits/service potential		
	Probable (more likely than not)	Possible	Remote
<b>Reliable estimate</b>	Liability (consider including in the note on provisions)	Contingent liability (disclose)	Contingent liability (do nothing)
<b>Not reliable estimate</b>	Contingent liability (disclose)	Contingent liability (disclose)	Contingent liability (do nothing)

The type of disclosures required in the note on contingent liabilities in the financial statement are illustrated below:

#### ***Motor vehicle guarantees***

The amount that must be disclosed in the department's annual financial statements is the lesser of:

- rand value of the amount guaranteed, or
- the amount outstanding on the loan as at financial year end.

The guarantee will only be settled if a member defaults and the guarantee is called up and is therefore contingent upon that uncertain future event.

This information could be retrieved from Report #7.11.15 on the Persal application. Currently the department did not issue any motor vehicle guarantees and the abovementioned is only applicable for future issued guarantees.

#### ***Housing guarantees***

The amount that must be disclosed is the rand value of the amount guaranteed as at financial year end.



### ***Statement of financial guarantees issued***

The following should be disclosed under each heading in the annexure if applicable:

- **Guarantor institution**

Name of the institution in respect of whose liabilities the guarantee was issued, e.g. Telkom, Land Bank, etc

- **Guarantee in respect of**

Examples would be capital markets loans 1/95, water purification plants, access roads to water project ST5, etc

- **Original guaranteed capital amount**

Capital amount for which the guarantee was issued and which appears on the guarantee documents.

- **Opening balance of guarantee**

The capital amount outstanding at the beginning of the financial year in respect of the guarantee amount is shown here (face value of bond loans). This amount must not include guaranteed interest.

- **Guarantees drawn down during the year**

The total amount in respect of draw downs on a guaranteed loan during the financial year.

- **Guarantees repayments/cancelled/reduced/released during the year**

The amount in respect of a guarantee repaid or realised during the financial year is shown here.

- **Currency revaluation**

The difference due to exchange rate movements on the closing balance. The rate of exchange to be used for the currency translation for foreign guarantees at financial year end will be the ***South African Reserve Bank middle rate***.

- **Closing balance of guarantees**

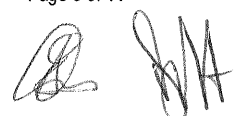
The capital amount outstanding at financial year end in respect of the guarantee amount is shown here (face value of bond loans).

- **Guaranteed interest outstanding as from last date of interest until financial year end**

Where interest is also guaranteed, interest on the guaranteed amount as from the last date of interest paid until financial year end, is shown here. The amount must be disclosed separately in this column and not be included in the closing balance.

- **Realised losses i.r.o. claims paid out**

Losses realised in respect of claims paid out are to be shown here. As in the case of a housing loan to an official, a guarantee claim paid out is not necessarily a loss to the State, seeing that the amount paid can be recovered from the person in question. If such an amount cannot be recovered and has to be written off, it is regarded as a loss.

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**Note:** Where interest is guaranteed, the guaranteed exposure is the sum of capital closing balance and guaranteed interest outstanding, and should be disclosed in the note

It is best practice for the department to agree the value of the guarantee with the guarantor prior to completing the disclosure requirements.

### **Claims**

The amount that must be disclosed in the disclosure note to the annual financial statements of the Department is the estimated settlement value of claims instituted against the Department as at financial year end.

The claim will only be settled when either the court decides that the Department is liable or the Department accepts the liability, both of which are unknown.

Civil claims against the department that have not been settled (by a court order or mutually between the parties) must be included in contingent liabilities. Claims are normally overstated. The amount disclosed is not necessarily the claim amount, but rather the amount determined as the most likely amount that the court will settle on. "Most likely" must be determined by a qualified legal person (such as the State Attorney) or from departmental/provincial history.

The list of current, pending outstanding legal disputes as at financial year end should be obtained from legal services department internally and externally.

### **SPECIAL CONSIDERATIONS**

**The following categories are used in respect of payments:**

- Ex-gratia (excluding vehicle collisions)
- Vehicle collisions: Ex-gratia payments
- Payment of compensation: Other
- Vehicle collisions: Payments of compensation

Regulation 18(a) of the SA Police Service Act (Act No 68 of 1995) is applicable only in those cases where an official suffered a loss or damage to personal belongings, which are usually carried by such officials during the performance of official duties.

### **WHERE FINAL SETTLEMENT WAS REACHED AND PAYMENT WAS MADE**

These payments will be expensed against the vote. Where final settlement was reached but payment is outstanding as at financial year end, it represents a provision and should be disclosed as such in a disclosure note.



## ADDITIONAL

The contingent liability sub schedules which agree to the disclosure note should be checked and verified for mathematical errors and unrecorded contingent liabilities by the Chief financial officer.

All applications with its supporting documentation for guarantees by departmental officials should be placed on his/her files.

An interdepartmental unconfirmed balance checklists should be signed off by the Chief Financial Officer and be included in the disclosure note to the financial statements.

A register should be maintained during the financial year for any claims against the department.

## CONTINGENT LIABILITY REGISTER

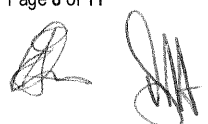
Nature of Liability	Opening Balance R	Liabilities incurred during the year R	Liabilities paid/cancelled/reduced during the year R	Liabilities recoverable(Provide details hereunder) R	Closing Balance R
Details					
Total	-	-	-	-	-

## INTERDEPARTMENTAL UNCONFIRMED BALANCE LIABILITIES

Government Entity	Unconfirmed Balance Outstanding at year end R	Description	Total R
Department			
Total			

## 2.2 APPLICATION SCOPE

This policy will apply to all officials of the Department of Environment and Nature Conservation.





### **3. POLICY FRAMEWORK**

#### **3.1 IDENTIFICATION AND CONSULTATION OF STAKEHOLDERS**

This policy does not warrant the inputs of employees because it is regulated by Financial prescripts (requirements of the PFMA) and the Provincial Treasury.

#### **3.2 TIMEFRAMES**

This policy was analysed and aligned by the Policy Development, Research and Coordination unit on May 19, 2011. This policy was further modified by incorporating the Departmental letterhead on September 27, 2011.

#### **3.3 IMPLEMENTATION STRATEGY**

The implementation date for this policy is \_\_\_\_\_

#### **3.4 FINANCIAL IMPLICATIONS**

The operational implications for this policy will be carried by the Supply Chain Management unit.

#### **3.5 COMMUNICATION**

- Provincial Treasury

#### **3.6 COMPLIANCE, MONITORING AND EVALUATION (M&E)**

#### **3.7 POLICY REVIEW**

This policy will be reviewed when the need arises or in case of the occurrence of extenuating circumstances (political mitigation, or pronouncement by legislation and/or regulations). The contact person for this policy will be required to submit all relevant information pertaining to this policy in conjunction with a signed memo with all amendments (addition or omission) during the third quarter annually.

**The exception**, the Policy development unit will be conducting all extenuating reviews throughout the year, therefore it is paramount that any new information received be submitted to this unit, in order to coordinate the review process of this policy.

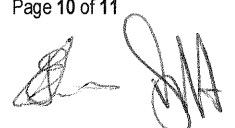
#### **3.8 POLICY IMPACT**

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This policy desires to outline the identification, treatment, recording and disclosure of contingent liabilities of the department according to the requirements of the PFMA.

### **3.9 INTERIM MEASURES**

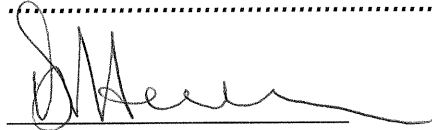
The department has been using the notes issued in terms of the PFMA.

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#### 4. ADOPTION OF POLICY

~~Recommended / Not Recommended~~  
Comments:

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.....




**D VAN HEERDEN**  
**HEAD OF DEPARTMENT**

20120125

**DATE**

~~Approved / Not Approved~~  
Comments:

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**MEC: S LUCAS**  
**MEMBER OF THE EXECUTIVE COUNCIL**  
**DEPARTMENT OF ENVIRONMENT AND**  
**NATURE CONSERVATION.**

7/11/2011

**DATE**



