

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

# THE GUARDIAN'S FUND

2004/05



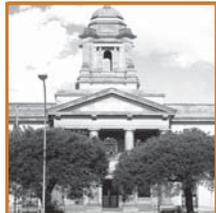
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Department:  
Justice and Constitutional Development  
**REPUBLIC OF SOUTH AFRICA**



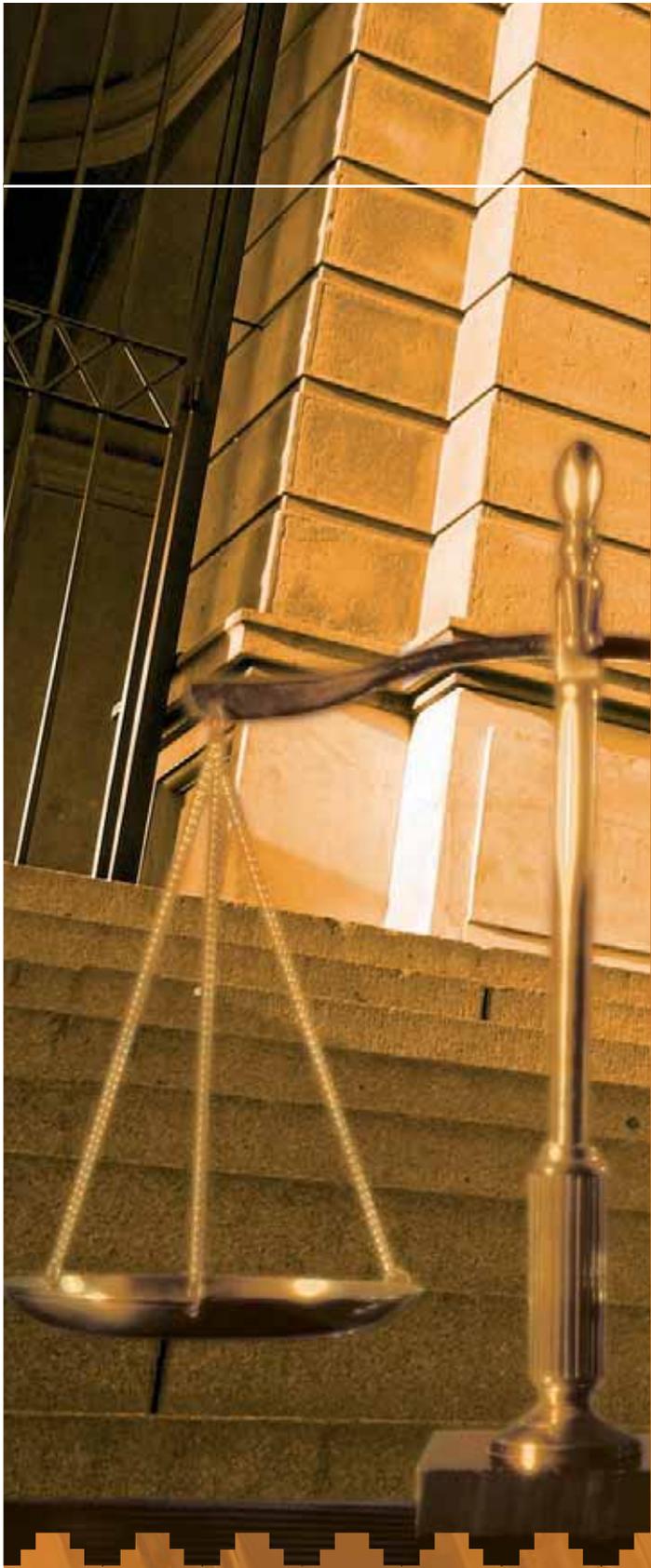
# The Guardian's Fund

2004/05



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CHAPTER I  
**AUDIT REPORT**

# REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE UNSIGNED SUMMARY OF STATEMENTS OF MONIES KEPT IN TRUST IN THE GUARDIAN'S FUNDS FOR THE YEAR ENDED 31 MARCH 2005

## I. AUDIT ASSIGNMENT

The summary of statements of monies kept in trust in the Guardian's Funds as set out on page ..., for the year ended 31 March 2005, has been audited in terms of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), read with the Public Audit Act, 2004 (Act No. 25 of 2004). The summary of statements, the maintenance of effective control measures and compliance with relevant laws and regulations are the responsibility of the Master of the High Court. My responsibility is to express an opinion on the summary of statements, based on the audit.

## 2. NATURE AND SCOPE

The audit was conducted in accordance with Statements of South African Auditing Standards. Those standards require that I plan and perform the audit to obtain reasonable assurance that the summary of statements is free of material misstatement.

### **An audit includes:**

- examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements,
- assessing the accounting principles used and significant estimates made by management, and
- evaluating the overall financial statement presentation.

Furthermore, an audit includes an examination, on a test basis, of evidence supporting compliance in all material respects with the relevant laws and regulations which came to my attention and are applicable to financial matters.

The audit was completed in accordance with the Auditor General Directive No. 1 of 2005

I believe that the audit provides a reasonable basis for my opinion.

## 3. QUALIFICATION

### **3.1 Annual financial statements**

#### *3.1.1 Summary of statements*

The summary of statements prepared for the Guardian's Funds is a consolidation of the financial statements of the 10 master's offices into six regions that administered the Guardian's Funds. The summary of statements submitted

for audit purposes for the year ended 31 March 2005 excluded the financial amounts of the Mmabatho office. These statements had not been included due to inadequate/irreconcilable accounting records maintained.

At the time of finalising the audit report a signed summary of statements has not yet been presented for audit purposes.

### *3.1.2 Non-compliance with generally accepted accounting practice*

The Guardian's Fund operated a manual financial management system which could not produce timely financial statements compliant with generally accepted accounting practice (gaap). The Guardian's Fund therefore could not comply with the requirements as set out in Audit Circular No. 1 of 2005, which states that the financial statements should be prepared within two months of year-end and in accordance with gaap.

It is impractical to disclose the nature of the deviation from the statements of Generally Accepted Accounting Practice (GAAP) as this would involve a reproduction of all the financial records.

### *3.1.3 Summary of statements did not agree with bank confirmations*

Confirmations received from a commercial bank reflected a difference of R1 272 050 (2004: R44 million) which was not accounted for in the summary of statements. This was as a result of inadequate bank reconciliations.

Consequently, I could not satisfy myself regarding the completeness and accuracy of the information contained in the summary of statements.

## **3.2 Ineffective accounting systems**

Accounting for transactions in the funds, which were administered by the respective masters of the provincial divisions of the High Court, were still performed manually.

The current systems, prescripts and methods of work did not enable the production of financial statements that were reliable, accurate and complete. The complexity of the manual system, the enormous number of interest calculations, the record-keeping of thousands of beneficiary accounts as well as the calculation of the annual interest provision posed a material risk of error and hindered the compilation of timely and accurate records.

Notwithstanding the lack of computerisation, no alternative procedures were used to negate the risk of record cards being misfiled, lost, stolen or destroyed. The risk of creating fictitious cards leading to the payment of fictitious beneficiaries was therefore increased.

An outdated procedure manual was in place at the Guardian's Fund to guide the employees in their day-to-day duties and to ensure that functions were performed consistently and in accordance with relevant rules and regulations. Staff performing the functions could not adhere to the documented procedure manuals due to changes in the systems. Therefore they adapted the manuals in performing their functions on a daily basis. This, however, had not been approved. According to the documented policies there were also no specific controls in place to detect fraud.

The drafting of new policies and procedures to accommodate the proposed computerisation of the fund was still in progress.

### 3.3 Shortfall in fund monies

Reconciliations between the obligations per the beneficiaries' trust account cards and the monies in the bank identified shortfalls in monies at Bisho and Umtata amounting to R5,55 million and R3,59 million, respectively.

The shortfalls for the Bisho office and the Umtata office have not been reconciled since 2003. A fraud investigation was being performed at the Grahamstown office where the files of these two offices were administered

### 3.4 Interest calculation incomplete

The Guardian's Fund is required to calculate interest on all interest-bearing accounts at the applicable interest rate, as determined annually by the Minister of Finance. No interest was calculated or accrued on the inactive account cards. The amount of the interest was not quantifiable due to the enormous manual records. Audit procedures for verification could therefore not be performed.

### 3.5 No reconciliation with the Public Investment Commissioner

Monthly reconciliations were not performed between the Guardian's Fund's records and the Public Investment Commissioner (PIC). Confirmations received from the PIC reflected a difference of R248 million, which had not been recorded in the books of the Guardian's Fund.

Included in the confirmation received from the PIC were two accounts, namely the main account and the reserve fund account of the Guardian's Fund amounting to R807 844 (2004: R940 000) and R10.1 million (2004: R11,8 million), respectively. These accounts had not been accounted for in the books of the fund.

### 3.6 Non-compliance with the Administration of Estates Act

#### (a) Interest-bearing monies

In terms of section 88(2)(b) of the Administration of Estates Act, 1965 (Act No. 66 of 1965) interest-bearing accounts in the funds that became legally claimable but remained unclaimed for any period must not earn interest after the expiry of five years.

Due to the manual system used these monies could not be readily determined and were not transferred to non-interest-bearing monies in terms of the legal requirements. Interest was accrued on unclaimed monies that must not earn interest after the expiry of five years. The overstatement of the interest calculation was not quantifiable due to the large volume of beneficiary accounts and the incomplete financial records. Audit procedures for verification could therefore not be performed.

#### (b) Non-interest-bearing monies

In terms of section 92 of the Administration of Estates Act, 1965 (Act No. 66 of 1965) those monies in the funds that have remained unclaimed by the persons entitled thereto for a period of 30 years from the date upon which such persons became entitled to claim the said money, must be forfeited to the state. Due to the current inefficient manual accounting systems it could not be readily determined which unclaimed monies should be forfeited to the state. Therefore the financial statements of the Guardian's Fund included funds that belonged to the state. Audit procedures for verification could therefore not be performed.

(c) Commission

In terms of section 93 of the Administration of Estates Act, 1965 (Act No. 66 of 1965) commission should be calculated on all unclaimed monies paid into the Guardian's Fund. If the monies are paid and cleared by the bank, the commission should be paid over to the South African Revenue Service (SARS). If the monies remain unclaimed, the entire amount including the commission, is paid over to SARS.

The commission, which should have been calculated and transferred could not be quantified due to the large number of account cards and the manual accounting system. Audit procedures for verification could therefore not be performed.

#### 4. DISCLAIMER OF OPINION

Because of the significance of the matters discussed in paragraph 3.1 to 3.6 I do not express an opinion on the Summary of Statements as at 31 March 2005.

#### 5. EMPHASIS OF MATTER

Without further qualifying the audit opinion expressed above, attention is drawn to the following matters:

##### 5.1 Non-compliance with the Income Tax Act

Tax certificates regarding interest allocated to beneficiary accounts were not sent to the South African Revenue Service and to beneficiaries on an annual basis as required by the Income Tax Act, 1962 (Act No. 58 of 1962).

##### 5.2 Non-compliance with an instruction issued by the National Treasury

In terms of an instruction issued by the National Treasury on 3 July 1998 the PMG account of the South African Reserve Bank was phased out on 31 January 1999 and a separate current bank account for each fund was opened with a commercial bank on 1 February 1999.

Confirmation has been received that the PMG account has been closed since November 2004. However, the summary of statement reflected a balance of R3 080 (2004: R4 million).

##### 5.3 Administration of Guardian's Fund

Various shortcomings have been identified, which included:

- No back-up policy
- No disaster recovery plan
- No risk assessment performed at the Guardian's Fund

## 6. ANNUAL REPORT

The annual reports of the Guardian's Fund for 2002-03 and 2003-04 have not been tabled in Parliament. However, the annual report for 2002-03 was made public on the website of the Master of the Supreme Court.

## 7. APPRECIATION

The assistance rendered by the staff of the Department of Justice and Constitutional Development during the audit is sincerely appreciated.

*Shaiket Fokee*

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**Auditor-General**

Pretoria

11 / 05 / 2006



AUDITOR - GENERAL



CHAPTER 2  
**FINANCIAL STATEMENTS**



# DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

## BRANCH: MASTER OF THE HIGH COURT

### SUMMARY OF STATEMENTS AS AT 31 MARCH 2005, RENDERED BY MASTERS OF THE HIGH COURT

|   | GAUTENG              |                    | WESTERN CAPE       |                    | EASTERN CAPE       |                    |
|---|----------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|   | 2004/05              | 2003/04            | 2004/05            | 2003/04            | 2004/05            | 2003/04            |
|   | R                    | R                  | R                  | R                  | R                  | R                  |
| TRUST MONIES HELD AT 01 APRIL   | 873,364,455          | 661,962,595        | 230,848,978        | 201,827,957        | 240,716,490        | 190,013,113        |
| ADD:  |                      |                    |                    |                    |                    |                    |
| Interest bearing monies   | 261,937,657          | 193,787,834        | 31,444,187         | 34,010,293         | 75,077,213         | 61,157,954         |
| Non-interest bearing money  | 28,338,211           | 45,222,570         | 6,537,650          | 9,021,943          | 3,239,908          | 5,684,839          |
| Interest credited   | 84,272,011           | 65,073,899         | 0                  | 0                  | 17,761,663         | 19,313,031         |
| Unallocated shortfall   | 0                    | 7,314              | 0                  | 0                  | 0                  | 0                  |
| Unallocated monies, Interest over-credited  | 0                    | 0                  | 16,446,575         | 19,347,378         | 0                  | 0                  |
|   | <b>1,247,912,334</b> | <b>966,054,212</b> | <b>285,277,390</b> | <b>264,207,571</b> | <b>336,795,274</b> | <b>276,168,937</b> |
| <b>LESS: Claims paid during the year</b>  |                      |                    |                    |                    |                    |                    |
| Interest bearing monies   | 181,089,003          | 85,512,310         | 33,160,931         | 29,762,706         | 34,679,500         | 31,394,389         |
| Non-interest bearing monies   | 46,617,890           | 5,816,511          | 3,777,458          | 3,595,887          | 1,760,266          | 4,058,058          |
| Unclaimed monies paid over to SARS  |                      |                    |                    |                    |                    |                    |
| Unallocated shortfall   | 0                    | 1,360,936          |                    |                    |                    |                    |
| Interest over-credited  |                      |                    |                    |                    |                    |                    |
| TRUST MONEYS HELD AT 31 MARCH   | 1,020,205,441        | 873,364,455        | 248,339,001        | 230,848,978        | 300,355,508        | 240,716,490        |
| THE ABOVE TRUST MONEYS ARE CATEGORISED AS FOLLOWS:  |                      |                    |                    |                    |                    |                    |
| Interest bearing monies   | 770,426,893          | 568,113,828        | 145,669,776        | 133,830,561        | 259,977,588        | 196,367,808        |
| Non-interest bearing monies   | 129,018,027          | 124,533,482        | 31,354,088         | 28,593,896         | 18,916,348         | 17,788,801         |
| Unallocated monies  | 120,760,521          | 180,709,831        | 68,173,313         | 66,724,887         | 21,461,572         | 26,559,881         |
| Unallocated money/ interest over-credited   |                      |                    | 3,141,824          | 1,699,634          | 0                  | 0                  |
| Unaccounted shortfall   | 0                    | 7,314              | 0                  | 0                  | 0                  | 0                  |
| <b>TOTAL</b>  | <b>1,020,205,441</b> | <b>873,364,455</b> | <b>248,339,001</b> | <b>230,848,978</b> | <b>300,355,508</b> | <b>240,716,490</b> |
| Trust monies represented by:  |                      |                    |                    |                    |                    |                    |
| Public Investment Commissioner  | 1,001,677,970        | 851,677,970        | 241,357,020        | 226,975,083        | 290,164,161        | 229,408,063        |
| Paymaster-General   | 3,079                | 4,000,718          | 1                  | 1                  | 0                  | 0                  |
| ABSA  | 18,524,392           | 17,685,767         | 6,981,980          | 3,873,894          | 975,890            | 2,092,970          |
|   | 1,020,205,441        | 873,364,455        | 248,339,001        | 230,848,978        | 291,140,051        | 231,501,033        |
| Shortfall Pretoria / Thohoyandou  | 0                    | 0                  |                    |                    |                    |                    |
| Shortfall Master Bisho  |                      |                    |                    |                    | 5,552,874          | 5,552,874          |
| shortfall Master Umtata   |                      |                    |                    |                    | 3,590,583          | 3,590,583          |
| Dissallowance   |                      |                    |                    |                    | 72,000             | 72,000             |
| <b>TOTAL</b>  | <b>1,020,205,441</b> | <b>873,364,455</b> | <b>248,339,001</b> | <b>230,848,978</b> | <b>300,355,508</b> | <b>240,716,490</b> |
| PIC confirmation  |                      |                    |                    |                    |                    |                    |
| ABSA confirmation   |                      |                    |                    |                    |                    |                    |
| Variance  |                      |                    |                    |                    |                    |                    |
| <b>NOTES:</b>   |                      |                    |                    |                    |                    |                    |
| The Eastern Cape fund includes the funds of Umtata (former Transkei) and Bisho (former Ciskei).   |                      |                    |                    |                    |                    |                    |
| The Gauteng fund includes the Thohoyandou fund (former Venda), but excludes the Mmabatho fund (former Bophuthatswana).  |                      |                    |                    |                    |                    |                    |
| A possible liability for an amount that can at present not be determined, exists with regard to moneys paid into revenue before being forfeited to the State in terms of Section 92 of the Administration of Estates Act, 1965 (Act No. 66 of 1965) |                      |                    |                    |                    |                    |                    |
| <b>GROWTH (RANDS)</b>   | <b>146,840,986</b>   |                    | <b>17,490,023</b>  |                    | <b>59,639,018</b>  |                    |
| <b>GROWTH (%)</b>   | <b>16.8%</b>         |                    | <b>7.5%</b>        |                    | <b>24.7%</b>       |                    |

## MONEYS IN TRUST KEPT IN THE GUARDIAN'S FUND ANNUAL FINANCIAL STATEMENTS 31 MARCH 2005

| NORTHERN CAPE     |                   | FREE STATE         |                    | KWAZULU-NATAL      |                    | TOTAL                |                      |
|-------------------|-------------------|--------------------|--------------------|--------------------|--------------------|----------------------|----------------------|
| 2004/05           | 2003/04           | 2004/05            | 2003/04            | 2004/05            | 2003/04            | 2004/05              | 2003/04              |
| R                 | R                 | R                  | R                  | R                  | R                  | R                    | R                    |
| 53,189,741        | 40,858,075        | 230,602,290        | 179,880,931        | 693,778,522        | 547,409,369        | 2,322,500,476        | 1,821,952,040        |
| 11,260,178        | 13,044,298        | 47,073,667         | 44,672,184         | 167,640,663        | 151,116,989        | 594,433,565          | 497,789,552          |
| 1,366,684         | 674,763           | 3,018,643          | 3,666,578          | 5,330,552          | 8,752,071          | 47,831,648           | 73,022,764           |
| 4,411,930         | 4,258,560         | 18,523,777         | 26,276,744         | 95,156,792         | 58,185,872         | 220,126,173          | 173,108,106          |
| 0                 | 0                 | 0                  | 0                  | 0                  | 0                  | 0                    | 7,314                |
| 7,331             | 2,350,836         | 0                  | 500                | 0                  | 0                  | 16,453,906           | 21,698,714           |
| <b>70,235,864</b> | <b>61,186,532</b> | <b>299,218,377</b> | <b>254,496,937</b> | <b>961,906,529</b> | <b>765,464,301</b> | <b>3,201,345,768</b> | <b>2,587,578,490</b> |
| 8,007,556         | 7,749,270         | 32,615,476         | 21,254,797         | 128,194,489        | 68,022,376         | 417,746,955          | 243,695,848          |
| 560,469           | 217,521           | 1,866,750          | 2,639,850          | 3,568,489          | 3,663,403          | 58,151,322           | 19,991,230           |
| 40,000            | 30,000            |                    |                    |                    |                    | 40,000               | 30,000               |
|                   |                   |                    |                    |                    |                    | 0                    | 1,360,936            |
| 2,031,561         | 0                 | 0                  | 0                  | 0                  | 0                  | 2,031,561            | 0                    |
| 59,596,278        | 53,189,741        | 264,736,151        | 230,602,290        | 830,143,551        | 693,778,522        | 2,723,375,930        | 2,322,500,476        |
| 56,617,295        | 48,635,727        | 247,558,273        | 216,789,423        | 616,428,299        | 576,982,125        | 2,096,678,124        | 1,740,719,472        |
| 2,571,383         | 1,770,080         | 5,785,570          | 4,591,780          | 26,932,109         | 25,170,046         | 214,577,525          | 202,448,085          |
| 407,600           | 2,783,934         | 11,392,308         | 9,221,087          | 89,972,627         | 91,626,351         | 312,167,941          | 377,625,971          |
| 0                 | 0                 | 0                  | 0                  | 96,810,516         | 0                  | 99,952,340           | 1,699,634            |
| 59,596,278        | 53,189,741        | 264,736,151        | 230,602,290        | 830,143,551        | 693,778,522        | 2,723,375,930        | 2,322,500,476        |
| 58,788,373        | 51,300,673        | 257,970,325        | 225,726,548        | 809,324,028        | 674,277,630        | 2,659,281,877        | 2,259,365,967        |
|                   |                   | 0                  |                    |                    |                    | 3,080                | 4,000,719            |
| 807,905           | 1,889,068         | 6,785,826          | 4,875,742          | 20,819,523         | 19,500,892         | 54,895,516           | 49,918,333           |
| 59,596,278        | 53,189,741        | 264,756,151        | 230,602,290        | 830,143,551        | 693,778,522        | 2,714,180,473        | 2,313,285,019        |
|                   |                   |                    |                    |                    |                    | 0                    | 0                    |
|                   |                   |                    |                    |                    |                    | 5,552,874            | 5,552,874            |
|                   |                   |                    |                    |                    |                    | 3,590,583            | 3,590,583            |
|                   |                   |                    |                    |                    |                    | 72,000               | 72,000               |
| <b>59,596,278</b> | <b>53,189,741</b> | <b>264,756,151</b> | <b>230,602,290</b> | <b>830,143,551</b> | <b>693,778,522</b> | <b>2,723,395,930</b> | <b>2,322,500,476</b> |
|                   |                   |                    |                    |                    |                    | <b>2,907,323,118</b> | <b>2,438,291,819</b> |
|                   |                   |                    |                    |                    |                    | <b>56,167,445</b>    |                      |
|                   |                   |                    |                    |                    |                    | <b>240,094,633</b>   | <b>115,791,343</b>   |
| <b>6,406,537</b>  |                   | <b>34,153,861</b>  |                    | <b>136,365,029</b> |                    | <b>400,895,454</b>   |                      |
| <b>12.0%</b>      |                   | <b>14.8%</b>       |                    | <b>19.6%</b>       |                    | <b>17.2%</b>         |                      |



Issued by: The Department of Justice and Constitutional Development

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