

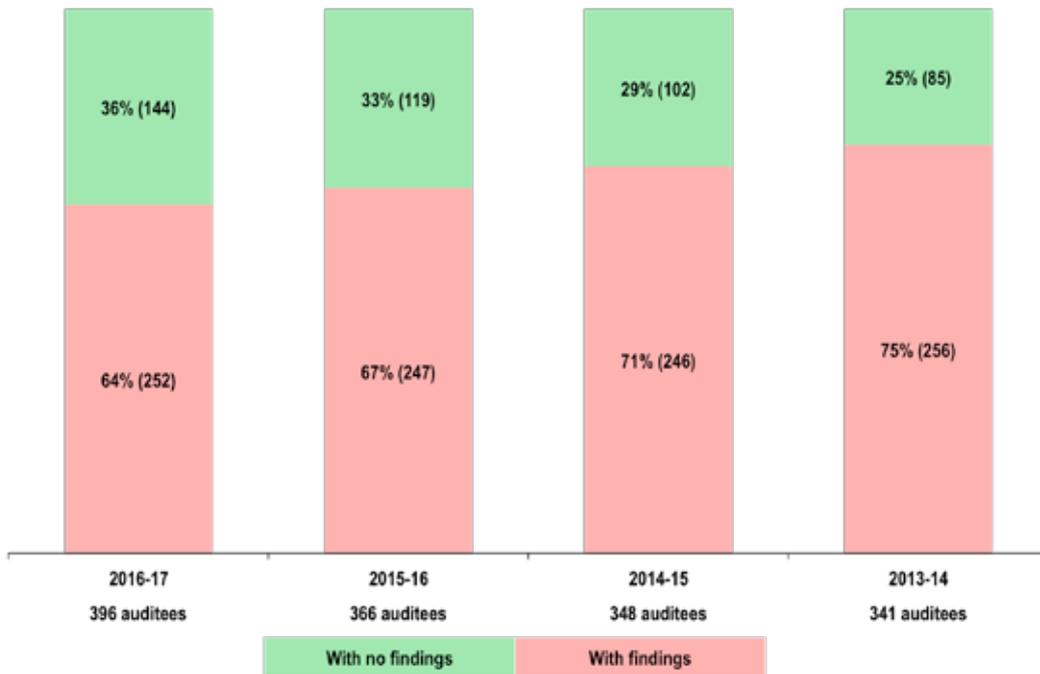
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## **Compliance with key legislation**

## 9. Compliance with key legislation

Figure 1 depicts the number of auditees that had material findings on compliance over the past four years, while table 1 indicates the status of compliance in national and provincial government at the auditees whose audits had been completed.

Figure 1: Auditees with findings on compliance with key legislation



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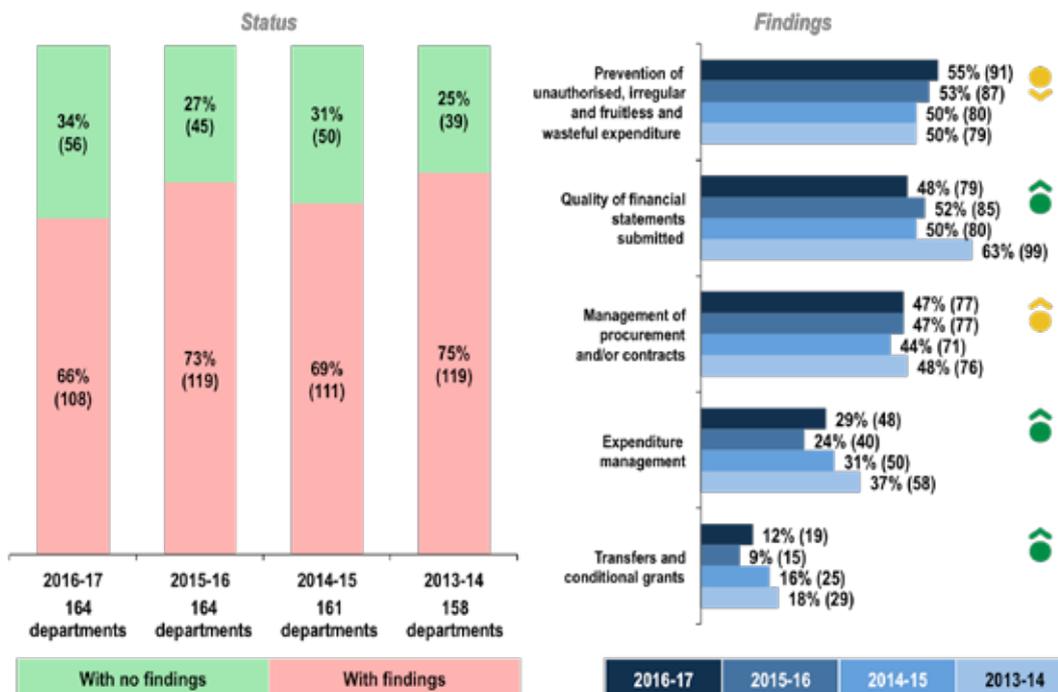
Table 1: Status of compliance with key legislation in national and provincial government

Portfolio	Auditees with no findings on compliance	
	Number	Movement from 2015-16
National auditees	86 (39%)	↑
Eastern Cape	7 (33%)	↑
Free State	3 (19%)	↑
Gauteng	12 (52%)	↑
KwaZulu-Natal	4 (17%)	→
Limpopo	2 (10%)	↑
Mpumalanga	5 (29%)	→
Northern Cape	4 (31%)	→
North West	2 (9%)	→
Western Cape	19 (100%)	↑
Total	144 (36%)	↑

With regard to the completed audits, the percentage of auditees **with material findings** had decreased over the four-year period with a further slight decrease since the previous year from 67% to 64%. The compliance outcomes for the provinces remained relatively unchanged, with Limpopo and the Free State improving on the number of their auditees with no compliance findings.

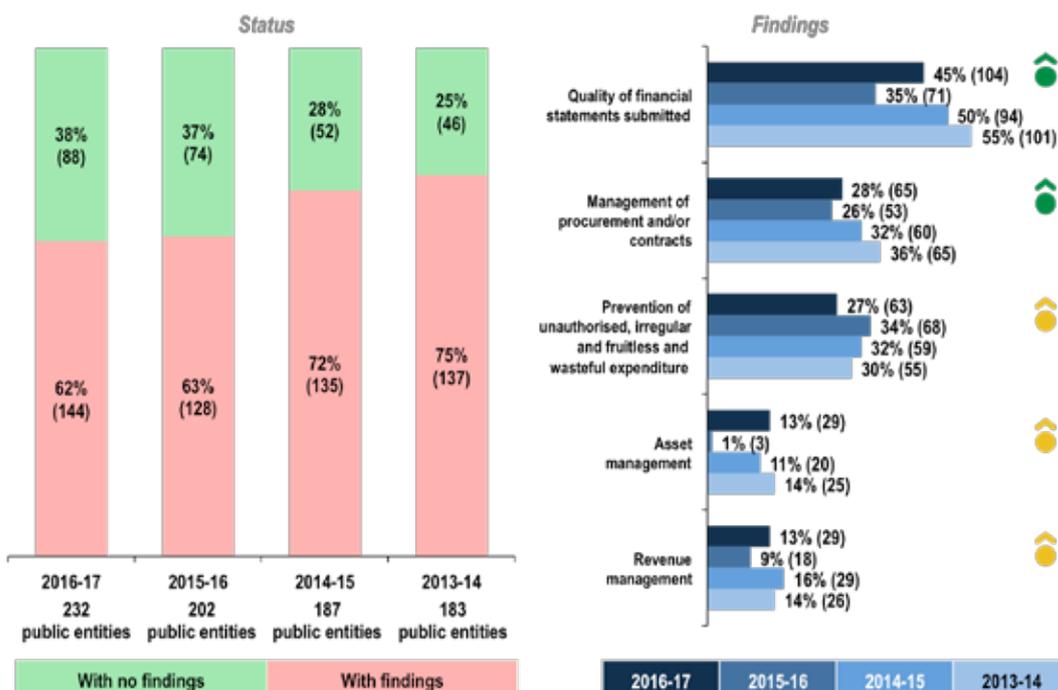
Figures 2 and 3 show the status and compliance areas with the most material findings over the four years at departments and public entities, respectively.

**Figure 2: Status of compliance in most common areas of non-compliance – departments**



**Figure 3: Status of compliance in most common areas of non-compliance – public entities**

(As the number of public entities we report on increased significantly over the four years, the movement arrows in the graphic are based on the number of public entities with findings and not the percentage)



As shown in figure 2, the **compliance by departments had improved** since 2013-14 and the previous year but remained high with two-thirds of departments materially not complying with legislation. Countrywide, 87% of the departments of **education, health and public works** had findings on compliance with key legislation. This remained relatively unchanged from the previous year when 90% of these departments had findings. Limpopo and KwaZulu-Natal had the highest number of departments with compliance findings at 92% and 87%, respectively.

Figure 3 shows that the **number of public entities with material findings had increased** since 2013-14 and the previous year (the percentage shows an improvement, but it is as a result of a significant increase in the number of auditees being audited since 2013-14).

Our audits in 2016-17 did not include an assessment of the financial impact of the non-compliance by auditees. Based on the nature of the compliance findings, however, we determined that 175 (69%) of the auditees with material findings on compliance in 2016-17 had **findings with a potential negative financial impact or findings that could cause a financial loss** for the public entity or government. It is the role of those charged with governance to investigate non-compliance and the impact thereof, which could include financial loss through excessive expenditure (uneconomical use of funds), fruitless and wasteful expenditure, lost revenue, failure to recover debt, and avoidable penalties and interest.

There had been a slight regression in the **prevention of unauthorised, irregular and fruitless and wasteful expenditure** at departments since 2013-14 and the previous year as indicated in figure 2, while figure 3 shows that the number of public entities that did not comply in this regard had increased since 2013-14 although there was a slight improvement from the previous year. Sections 5, 9.1 and 9.2 provide more information on the movements in these areas.

We report the poor quality of the financial statements we receive in the audit reports of some auditees as a material finding on compliance, as it also constitutes non-compliance with the PFMA. The finding is only reported if the financial statements we received for auditing included **material misstatements** that could have been prevented or detected if the auditee had an effective internal control system. We do not report a finding if the misstatement resulted from an isolated incident or if it relates to the disclosure of unauthorised, irregular or fruitless and wasteful expenditure identified after the financial statements had been submitted. Section 7 provides more information on the movements in this area.

There had been little change since 2013-14 in the number of material findings on compliance with legislation in respect of **procurement and contract management** (also referred to as SCM) at departments, with no change since the previous year. Public entities also showed little improvement. Section 9.1 provides more information on the findings and movements in this area.

While there was an improvement from 2013-14, departments continued to struggle with **expenditure management**. In 2016-17, 26% of departments did not pay creditors within 30 days or an agreed-upon period – a regression when compared to the 21% in the previous year. We provide more information in section 5 on financial health and the state of payments within 30 days across all auditees.

The most common finding at departments on **transfers and conditional grants** was that appropriate measures had not been taken to ensure that receiving entities applied transfers for their intended purposes. There had been an improvement in this area over the past four years, although there had been a slight regression from the previous year. Section 3 includes information on the use of grants for some of the programmes – also refer to section 16 for our findings at a provincial level.

There was an increase in the number of public entities with findings on **asset management**. The main finding was that proper control systems had not been implemented to safeguard and maintain assets.

Effective and appropriate steps were not taken to collect all money due. This remained a common finding under **revenue management** at public entities, with little improvement in this area since 2013-14.

In addition to the most common areas of non-compliance in figures 2 and 3, we also raised findings in the following areas:

- Consequence management – 31 auditees (2015-16: 31) (refer to section 9.3 for more information in this regard)
- Management of strategic planning and performance – 19 auditees (2015-16: 29)
- Timing and/or content of financial statements and annual reports – 15 auditees (2015-16: 38)
- Preparation and/or control of budgets – 13 auditees (2015-16: seven)