

Public Finances (Management)

PART XI. - SURCHARGE.

102. IMPOSING OF SURCHARGE.

Where it appears -

- (a) in any case - to the Departmental Head of the Department responsible for financial management; or
- (b) in the case of matters administered by a Department - to the Departmental Head of that Department; or
- (c) in the case of matters administered by a Provincial Government - to the Provincial Administrator of the province,

that any person who is or has been an accountable officer -

- (d) has wilfully or negligently omitted to collect or receive any moneys for the collection or receipt of which he was responsible; or
- (e) has failed to account for any moneys; or
- (f) has been responsible for any improper payment of public moneys or for any payment of public moneys that was not vouched and authorized; or
- (fa) has authorized or permitted a breach of procedures relating to -
 - (i) the calling, considering and awarding of tenders; or
 - (ii) the execution of a State Contract; or

(Paragraph (fa) inserted by No. 14 of 1998)

- (g) has been responsible for any deficiency in or for the loss or destruction of or damage to any public moneys, stamps, securities, stores or other State property; or
- (h) has overcommitted funds under his control or failed to comply with any of the provisions of this Act or of the ***Organic Law on Provincial Governments and Local-level Governments***; or
- (i) has approved requisitions for the expenditure of public moneys without observing the prescribed procedures, rules or provisions of the Act or Financial Instructions or of the ***Organic Law on Provincial Governments and Local-level Governments***; or
- (j) has failed to deposit forthwith the money collected by him into the Public Account,

the -

- (k) Departmental Head of the Department responsible for financial management; or
- (l) the Departmental Head of that Department; or
- (m) the Provincial Administrator of the province,

may, subject to Section 103, surcharge him with a sum that does not exceed -

- (n) any amount not collected, received, accounted for, improperly paid, not vouched or authorized or the amount of any deficiency; or
- (o) the value of any property lost or damaged; or

- (p) the value of any property damaged or, in the discretion of the Departmental Head of the Department responsible for financial management, the cost of repairs; or
 - (q) in a case to which Paragraph (fa) relates, the amount of any improper payment or other loss of public moneys.
- (Paragraph (q) added by No. 14 of 1998)**

103. PROCEDURE FOR IMPOSITION OF A SURCHARGE.

- (1) Before imposing a surcharge under Section 103, the -
 - (a) Departmental Head of the Department responsible for financial management; or
 - (b) Departmental Head of a Department,
 as the case may be, shall -
 - (c) forward to the person against whom it is proposed to make the surcharge a notice in the prescribed form; and
 - (d) consider any submissions made by that person within the period specified in the notice,
 and in the light of those submissions may decide -
 - (e) to impose a surcharge for the amount specified in the notice or for a different amount; or
 - (f) not to impose a surcharge.
- (2) Where the -
 - (a) Departmental Head of the Department responsible for financial management; or
 - (b) Departmental Head of a Department,
 as the case may be, imposes a surcharge he shall forward to the person surcharged a notice in the prescribed form.
- (3) Where the -
 - (a) Departmental Head of the Department responsible for financial management; or
 - (b) Departmental Head of a Department,
 as the case may be, forwards a notice under Subsection (1) to a person and later decides not to impose a surcharge, he shall so notify the person.

104. ANNULMENT OF SURCHARGE.

The Minister may, at any time, annul a surcharge and any amount paid in consequence of it shall be refunded.

105. APPEAL AGAINST SURCHARGE.

- (1) In this section, “the appellant authority” means a person or authority appointed by the Head of State, acting on advice, for the purpose.
- (2) A person on whom a surcharge has been imposed may appeal to the appellant authority within the period of one month after he has been notified of the

surcharge or within such further period as the appellant authority allows (whether before or after the expiration of that period of one month).

(3) After such investigation as it thinks proper, the appellant authority may make such order as it thinks proper -

- (a) confirming the surcharge; or
- (b) annulling it in whole or in part.

106. RECOVERY OF AMOUNT OF SURCHARGE.

(1) The amount of surcharge may be recovered as a debt from the person on whom it was imposed.

(2) Notwithstanding any other law, the Departmental Head of the Department responsible for financial management may direct that the amount of a surcharge imposed on any person employed by the State be deducted from any moneys paid or payable to that person by the State arising out of his employment by the State.