THE PUBLIC FINANCE ACT, 2001
(No. 6 of 2001)

REGULATIONS

Made under sections 6 and 10

THE PUBLIC FINANCE (SURCHARGE AND PENALTIES) REGULATIONS, 2005

PART 1
PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Public Finance (Surcharge and Penalties) Regulations, 2005 and shall be read as one with the Public Finance Regulations, 2001 and shall come into operation on the 1st day of July, 2005.

2. In these Regulations unless the context otherwise requires -

"Accounting Officer" means any Officer appointed by the Paymaster General pursuant to section 8 of the Act;
"Act" means the Public Finance Act;

"Consolidated Fund" means the Consolidated Fund of the Government of the United Republic of Tanzania;

"Government" means the Central Government and Local Government Authorities;

"Minister" means the Minister responsible for matters relating to finance;

"Public Accounts Committee or in its acronym “PAC” means a Committee established under Standing Order 89(d) of the National Assembly;

"public money" includes:

(a) the public revenues of the United Republic of Tanzania;
(b) any trust or other moneys held, whether temporarily of otherwise, by an officer in his official capacity, either alone or jointly with any other person, whether an officer or not;

"public officer" means a civil servant employed by the Government or any Officer of a Government Authority, Parastatal Organisation or any other Government Institution;

"public property” means resources owned by the Government or in the custody or care of the Government;

"resources” includes moneys, stores, property, assets, loans and investments;

3. Any word or expression used in these Regulations and not defined herein shall have the meaning ascribed to it in the Act.

PART II
ACCOUNTABILITY

4. Every Accounting Officer shall be personally and pecuniarily responsible and accountable for the collection and receipt of all revenue or for all disbursements of expenditure in his vote, and shall be answerable to the Public Accounts Committee (PAC).
5. Any Accounting Officer who authorises or approves the use of public funds or property contrary to the provisions of the Act, shall be accountable for any loss arising from that use and shall be required to make good the loss or be surcharged under these Regulations, even if he has ceased to hold that Office.

PART III
POWER TO SURCHARGE AND IMPOSE PENALTIES

6. In exercising his duties under these Regulations, the Minister shall have power to:
   (a) upon the recommendation by the Public Accounts Committee, surcharge any Accounting Officer or any Public Officer as prescribed under the Schedule of these Regulations;
   (b) withdraw the appointment of any Accounting Officer upon the recommendation by the Paymaster General, where gross negligence in the performance of his duties has been proved by the Controller and Auditor General and confirmed by the Public Accounts Committee (PAC).

7. Where the Minister is satisfied that a Public Officer who is or was at the relevant time responsible for:
   (a) any payment made without due authority according to the law;
   (b) failure to collect any money owing to the Government for the collection of which such person is or was responsible;
   (c) any deficiency or loss occasioned by negligence or misconduct;
   (d) causing or permitting any deficiency in or damage to, or the loss or destruction of any public moneys, stamps, securities, public buildings, equipments, vehicles, stores, fittings, furniture or other government property;
   (e) committing or incurring, or authorizing or requiring a person under his control to commit or to incur expenditure in excess of any amount duly authorized at
he may surcharge such public officer in accordance with the provisions
prescribed under the Schedule to these Regulations.

8.-(1) Where the Minister decides to surcharge an accounting
officer or public officer, he shall notify such person and the Controller
and Auditor-General, of any surcharge made under these Regulations.
(2) Any person who has received a notification under this
Regulation shall, within twenty one days, provide an explanation to the
Minister as to why the surcharge should not be imposed on him.

9. The Minister may at any time withdraw any surcharge in
respect of which a satisfactory explanation has been received or if it
otherwise appears to him that no surcharge should have been made and
in any such event the Minister shall notify the person surcharged, and the
Controller and Auditor-General, of such withdrawal.

10. The Minister may, by Order under his hand, delegate to the
Paymaster General and Accounting Officer, his functions under these
Regulations.

11. The decision of the Minister to surcharge under these
Regulations:
(a) shall be final and conclusive; and
(b) shall be binding.

12. Every sum surcharged pursuant to these Regulations shall be
paid to the Exchequer Account.
## SCHEDULE

<table>
<thead>
<tr>
<th>BREACH</th>
<th>1&lt;sup&gt;ST&lt;/sup&gt; BREACH</th>
<th>2&lt;sup&gt;ND&lt;/sup&gt; BREACH</th>
<th>3&lt;sup&gt;RD&lt;/sup&gt; BREACH</th>
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<tbody>
<tr>
<td>1. Deferralment of expenditures from one year to another for the purpose of avoiding excess expenditure on the amount provided in the estimates.</td>
<td>10% of one month’s salary and a reprimand</td>
<td>20% of one month’s salary and a second reprimand</td>
<td>30% of one month’s salary and/or a recommendation to the appointing authority by the PMG to relieve the Accounting Officer of his/her duties.</td>
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<tr>
<td>2. Failure to comply with any Subsidiary legislation made or issued under the Public Finance Act 2001</td>
<td>20% of one month’s salary and a reprimand</td>
<td>30% of one month’s salary and a second reprimand</td>
<td>30% of one month’s salary and/or a recommendation to the appointing authority by the PMG to relieve the Accounting Officer of his/her duties.</td>
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<tr>
<td>3. Failure to comply with all Instructions that may from time to time be given by the Accountant General in respect of custody and handling of and the accounting for public money, public stores, investments securities or negotiable instruments, whether the property of the Government or on deposit with or entrusted to the Government or to any public officer in his official capacity or any other person.</td>
<td>20% of one month’s salary and a reprimand</td>
<td>30% of one month’s salary and a second reprimand</td>
<td>30% of one month’s salary and/or a recommendation to the appointing authority by the PMG to relieve the Accounting Officer of his/her duties.</td>
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<td>4. Opening of public Bank accounts without the approval of the Accountant General</td>
<td>Reprimand and the closure of such account</td>
<td>15% of one month’s salary and 2&lt;sup&gt;nd&lt;/sup&gt; reprimand</td>
<td>15% of one month’s salary and/or a recommendation to appointing authority to relieve of responsibilities</td>
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**PMG:** Public Management Group
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<td>5.</td>
<td>Failure to guard against duplicate payment on a voucher by stamping paid immediately if it has been paid leading to double payment.</td>
<td>Charged with the amount of the loss occasioned</td>
<td>Charged with the amount of loss plus 15% of officer's salary</td>
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<td>6.</td>
<td>Failure by Accounting Officer or retention Departments to transfer Retention funds monthly to the retention account at the Central Bank</td>
<td>15% of monthly salary</td>
<td>20% of monthly salary</td>
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<td>7.</td>
<td>Communicating of a password to another officer</td>
<td>Reprimand and/or dismissal</td>
<td>Reprimand and/or dismissal</td>
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<td>8.</td>
<td>Failure to retire imprest within prescribed time</td>
<td>Charged with full recovery plus 10% of the total imprest outstanding</td>
<td>Charged with full recovery plus 15% of the total imprest outstanding</td>
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<tr>
<td>9.</td>
<td>Purchase of goods, services and consultancy without proper authorization</td>
<td>30% of one month's salary</td>
<td>30% of one month's salary</td>
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<td>10.</td>
<td>Stores not taken on ledger charge</td>
<td>20% of one month's salary</td>
<td>20% of one month's salary</td>
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<td>11.</td>
<td>Delay to submit accounts/financial statements within prescribed time</td>
<td>20% of one month's salary</td>
<td>20% of one month's salary</td>
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<td>12.</td>
<td>Excess Vote without proper authority</td>
<td>20% of one month's salary</td>
<td>30% of one month's salary</td>
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<td>13.</td>
<td>Failure/delay to account for D-Funds</td>
<td>20% of one month's salary</td>
<td>20% of one month's salary</td>
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<td>Occasioning losses of cash and stores</td>
<td>Charged with full recovery plus 30% of the total loss</td>
<td>Charged with full recovery plus 30% of the total loss</td>
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<td>14</td>
<td>Failure to reply to Audit queries, observation and other reports within prescribed time</td>
<td>5% of one month’s salary</td>
<td>10% of one month’s salary</td>
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<td>16</td>
<td>Procurement of consultancy without proper authority, poor supervision and/or execution of works.</td>
<td>15% of one month’s salary</td>
<td>Reprimand and 20% of one month’s salary</td>
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<td>17</td>
<td>Failure to Bank Revenue Collection</td>
<td>Full recovery plus 20% of the total amount outstanding</td>
<td>Reprimand, Full recovery plus 20% of the total amount outstanding</td>
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<tr>
<td>18</td>
<td>Subventions not accounted for</td>
<td>20% of one month’s salary</td>
<td>30% of one month’s salary</td>
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<tr>
<td>19</td>
<td>Neglect or failure to impose recovery of outstanding imprest, advances and other deductions</td>
<td>10% of one month’s salary</td>
<td>10% of one month’s salary</td>
</tr>
</tbody>
</table>

Dar-es-Salaam, 1/6/2005

BASIL P. MRAMBA, Minister for Finance