

FMM 02.9 Surcharge and Penalty

9.1 Authority and Prescribed Requirements

- Public Financial Management Act 1995 (consolidated to 2021) (the 'PFMA')
- Cybercrime Code Act of 2016

9.2 Standards and Supporting Documentation

Nil

9.3 Minimum Responsibilities

Secretary for Finance, Departmental Heads, Accountable Officers

9.4 Mandated Policy

- 1. A surcharge is a statutory debt owed to the State, imposed on a person responsible for financial loss, mismanagement, or non-compliance with public financial management rules. Grounds for Surcharge under Section 102 of the PFMA include:**
 - Failing to collect, receive, or account for public money;
 - Making unauthorised or unrecorded payments;
 - Permitting breaches of financial procedures or control;
 - Failing to prevent loss, damage, or destruction of public money or property;
 - Breaching any provisions of the PFMA or Organic Law on Provincial Governments and Local-level Governments.
- 2. The Secretary for Finance has exclusive statutory authority to impose a surcharge.**
- 3. A surcharge must be published by Notice in the National Gazette, stating:**
 - the amount owed,
 - grounds for the surcharge,
 - and the Finance Secretary's opinion as the basis for imposition.
- 4. The surcharge amount is recoverable as a debt due to the State, and can be executed as a court judgment without further court proceedings.**

5. Under Section 106 the Finance department head may authorise salary deductions to recover surcharge amounts.

6. Judicial review is allowed, but only after:

- the full amount is paid into court, and
- security for costs is also lodged (Section 102(6)–(7)).

7. The Finance Minister may annul a surcharge at any time by publishing a notice in the National Gazette with reasons for annulment (Section 104 PFMA).

9.4.1 Offences under the PFMA (Section 106A)

8. All offences are strict liability offences.

9. Breaches include any failure to comply with duties or financial obligations under the Act.

10. Penalties upon conviction:

- Individuals: up to K2,000,000 fine or 15 years imprisonment.
- Non-individuals (e.g. firms or SOEs): up to K50,000,000 fine.

11. Judicial consideration is given to the person's rank—senior officers are held to a higher standard.

12. Any person or firm subject to a surcharge or conviction is permanently barred from:

- employment in public or statutory bodies,
- holding procurement contracts,
- and being contracted by any other entity with a public sector contract.

13. The Finance Minister may suspend a person from office without pay if it is in the best interests of financial administration.

14. Suspension is issued by notice and published in the National Gazette.

9.5 Non-Mandatory Guidance

9.5.1 Procedure for Imposition

- Before imposing a surcharge, the Departmental Head should obtain a detailed report on the matter. This report forms the basis for surcharge.
- Once satisfied there are reasonable grounds for surcharge, the Departmental Head should then issue a Notice of Proposed Surcharge.
- If there is no satisfactory explanation, or if there is no explanation within the period mentioned in the Notice, the Departmental Head may decide to impose the surcharge. He will then forward the Notice of Imposition of Surcharge to the person surcharged.
- The same procedure as above will be followed by the Secretary for Finance if he exercises his authority to impose surcharge under Section 102 of the PFMA.

9.5.2 Procedure for Recovery

According to Section 108 of the PFMA, the amount of surcharge may be recovered from a person as a debt. If amounts are due to that person by way of salary or other employment benefit, the Department should recover the amount of surcharge from the amounts payable after obtaining the approval from the Secretary for Finance.

Further Information	frcd@finance.gov.pg
Version	1.0
Date Issued	30 June 2025