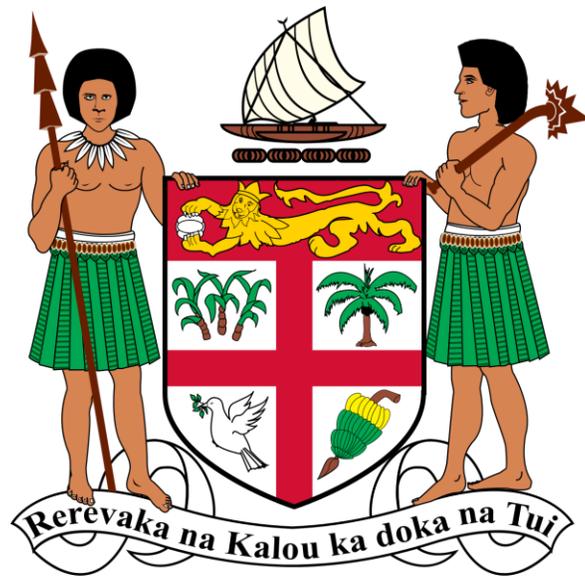


SURCHARGE IRRECOVERABLE AMOUNT POLICY



**Ministry of Economy
Ro Lalabalavu House
Suva**

2020

1.0 Definition

Policy means this Surcharge Irrecoverable Amount Policy.

Enforcement Agencies means the Fiji Revenue Customs Service, the Land Transport Authority and the Department of Immigration, respectively where applicable.

Permanent Secretary means the Permanent Secretary responsible for finance of the Government of the Republic of Fiji.

Surcharging Authority means the surcharging authority as defined under the Financial Management Act 2004.

Surcharge Unit means the respective surcharge unit within the Ministry of Economy of the Government of the Republic of Fiji.

Introduction

1.1 This Policy has been developed to act as a procedural guide to govern the surcharge irrecoverable cases which constitute outstanding dues to Government.

1.2 A surcharge case is considered irrecoverable when outstanding surcharge amounts due to Government are not fully recovered:

- upon the death of the surcharged officer(s); or
- before the surcharged officer(s) resigns, retires or is terminated from the civil service.

2.0 Scope

2.1 This Policy applies to all Government Ministries and Departments that deals with surcharge cases and that are governed by the Financial Management Act 2004 and its regulations.

3.0 Purpose

3.1 The purpose of this Policy is to:

- (i) Ensure that the responsible officer(s) at the respective Ministries and Departments makes arrangement with an alleged surcharged officer before he/she resigns, retires or is terminated from the civil service while their surcharge case is still being processed;
- (ii) Ensure that the respective Ministries and Departments understand the procedures to be followed upon death of a surcharge officer(s)

and before a surcharged officer(s) who still owes money to Government leaves the civil service;

- (iii) Ensure that surcharge related documents are filled by the respective Ministries and Departments and are immediately submitted to the Surcharge Unit of the Ministry of Economy;
- (iv) Ensure that the Ministries and Departments undertakes necessary action and document the action taken before a surcharged officer leaves the civil service; and
- (v) Ensure that necessary actions will be undertaken as per the Financial Management Act 2004 and its regulations to recover surcharge irrecoverable amounts through the Office of the Solicitor-General and the Enforcement Agencies.

4.0 Authority under the Constitution

- 4.1 Section 127-(8), states that the permanent secretary of each ministry, with the agreement of the Minister responsible for the ministry, has the authority to determine all matters pertaining to the employment of all staff in the ministry.
- 4.2 Section 152-(7), states that the Auditor-General has the authority to determine all matters pertaining to the employment of all staff in the Office of the Auditor-General.
- 4.3 Section 131-(6) states that the Commander of the Republic of Fiji Military Forces, with the agreement of the Minister responsible for the Republic of Fiji Military Forces, has the authority to determine all matters pertaining to the employment of all staff in the Republic of Fiji Military Forces.
- 4.4 Section 129-(8) states that the Commissioner of Police, with the agreement of the Minister responsible for the Fiji Police Force, has the authority to determine all matters pertaining to the employment of all staff in the Fiji Police Force.
- 4.5 Section 130-(8) states that the Commissioner of the Fiji Corrections Service, with the agreement of the Minister responsible for the Fiji Corrections Service, has the authority to determine all matters pertaining to the employment of all staff in the Fiji Corrections Service.

5.0 Requirements of the Financial Management Act 2004

- 5.1 Section 28-(1) states that the responsible authority for a budget sector agency is responsible for the following:

“(e) The collection of agency revenue and state revenue so far as the revenue relates to the functions of the agency or the agency is otherwise responsible for its collection.”

- 5.2 Section 71 states that the amount of any surcharge imposed is recoverable as a debt due to the State from the surcharged person.

6.0 Requirements of the Finance Instructions 2010

- 6.1 Section 65-(2) states that any surcharge recovery must be made in full within five years from the date of the surcharge or for a longer period as approved by the Permanent Secretary responsible for finance.
- 6.2 Section 65-(4) states that upon death, termination, resignation or retirement of the surcharged officer, the Government shall make full recovery of the outstanding amount of the surcharge including any dues outstanding by Government.
- 6.3 Section 59-(2) provides that the Accounting Head of an agency is responsible to the Permanent Secretary for the effective design and operation of internal controls across the agency.

7.0 Terms and Conditions

- 7.1 The responsible officer(s) at the Ministries and Departments must promptly inform the Surcharge Unit the details of an alleged surcharged officer and make necessary effort (in line with this Policy) to make arrangement before he/she resigns, retire or is terminated from the service and while his/her surcharge case is still being processed.
- 7.2 The responsible officer(s) at the respective Ministries and Departments must promptly inform the Surcharge Unit the death of a surcharged officer.
- 7.3 The Surcharge Form A² and Form B³ must be filled by the surcharged officer when the Surcharging Authority respectively issues a Surcharge Decision Letter.
- 7.4 The completed Surcharge Form A needs to be returned to the Surcharge Unit case officer(s) by the responsible Ministry or Department as soon as a surcharge case is identified.
- 7.5 Full recovery of the outstanding surcharge amount must be made from the surcharged officer before resignation, retirement or termination.

² Surcharge Information Form

³ Surcharge Debt Agreement Form

- 7.6 The Surcharge Form B needs to be filled when arrangement is made with the surcharged officer(s) who still owe money to government but is about to resign, retire from the civil service or is about to be terminated from the civil service.
- 7.7 Full recovery must be made from the surcharged officer's estate upon the death of a surcharged officer. Legal opinion from the Office of the Solicitor-General must be obtained by the Surcharge Unit when seeking to recover debt from the surcharged officer's estate.
- 7.8 Responsible officer(s) who fails to adhere to the requirements of this policy may be indirectly surcharged, at the discretion of the Permanent Secretary.
- 7.9 The names in the surcharge irrecoverable lists must be submitted to the Enforcement Agencies to execute the requirements of the respective Memorandum of Understanding between the Enforcement Agencies and the Surcharge Unit of the Ministry of Economy.

8.0 Responsibility of the respective Ministries and Departments

- 8.1 The Permanent Secretary for each Ministry or Head of Department is responsible for:-
- Ensuring that an officer(s) is assigned by the Ministry or Department to be a responsible officer for surcharge cases within that Ministry or Department;
 - Ensuring that full recovery of surcharge amount is made upon death and before a surcharged officer resigns, retire or terminated and necessary arrangement⁴ is made when the surcharge owing amount is to be paid later; and
 - Informing the Permanent Secretary for Economy of any irrecoverable surcharge cases from their respective Ministries and Departments and surcharge owing amount where arrangement has been made.
- 8.2 The Accounting Head of the respective Ministry and Department is responsible for:
- Putting in place internal process mechanism to ensure that a surcharged officer will fully repay surcharge amount before retiring, resigning or is being terminated from civil service;

⁴ Fill the Surcharge Debt Agreement Form B

- Facilitate the full recovery of the surcharge amounts upon the death of the surcharged officer(s) and when a surcharged officer(s) resigns, retire or is being terminated from service; and
- Ensuring that the Surcharge Form B is filled when arrangement is made on how the surcharge owing amount is to be paid by the surcharge officer(s) after leaving the civil service.

8.3 The responsible officer at the Administration Section of each Ministry or Department is responsible for:

- Ensuring that the Surcharge Unit is informed when an alleged surcharged officer(s) is about to leave⁵ the civil service but their surcharge case is still being processed in order to obtain an advice on the action to be taken and make appropriate arrangements if necessary;
- Ensuring that the Surcharge Unit is informed immediately via email followed by official correspondence upon the death of a surcharged officer;
- Ensuring that the Surcharge Form A is filled with all the required information and is submitted to the Surcharge Unit when an officer is issued with an Intention Letter to be surcharged for loss to the Government;
- Ensuring that Surcharge Form B is filled when an arrangement is made to repay the surcharge owing amount after the surcharged officer has resigned, retire or being terminated;
- Submitting the Surcharge Forms A & B to the Ministry of Economy Surcharge Unit; and
- Informing the Surcharge Unit through their respective Permanent Secretary if a surcharged officer resigns or retire or is terminated and an arrangement has been made.

8.4 The surcharged officer is responsible for:

- Filling the Surcharge Form A with all required information and submitting to the responsible officer at their respective Ministry or Department; and
- Filling the Surcharge Form B when making arrangement on how the owing surcharge amount will be repaid before leaving the civil service.

⁵ Resign, retire or being terminated

9.0 Responsibility of the Surcharge Unit

9.1 It is the responsibility of the officer(s) at the Surcharge Unit to:-

- Provide advice to the responsible officer(s) at the respective Ministry or Department when dealing with an alleged surcharge officer(s) case, where so requested;
- Seek legal opinion from the Office of the Solicitor-General when informed by the respective Ministry or Department the death of a surcharged officer;
- File Surcharge Form A & B in the respective surcharge case file(s);
- Enquire with the responsible officer(s) at the respective Ministry or Department if the Surcharge Form A & B are not filled or received. Also, enquire when the payroll system shows that a surcharged officer has been terminated from the system and the officer(s) still have surcharge owing amount;
- Provide the necessary documents⁷ to the surcharge officer responsible for reporting and reconciliation to update the surcharge register on the arrangement that has been made between the respective Ministry or Department and the surcharged officer;
- Monitor the repayments made by the officer(s) that has left the civil service and include the details in the monthly surcharge report and quarterly irrecoverable surcharge arrears;
- Inform Principal Accounts Officer via Senior Accounts Officer if repayments are not made as per the arrangement so that the information can be expedite to the Office of the Solicitor-General for a legal advice on the action to be carried out; and
- Review and verify the information provided by the surcharge officer(s) responsible for reporting and reconciliation before submitting the details to the Enforcement Agencies.

10.0 Penalties and Corrective Action

10.1 **Corruption:** includes when an officer involved in the surcharge recovery process collude with a surcharged officer resulting to the surcharge amount not fully recovered before the surcharged officer exits the civil service.

⁷ Surcharge Form A & B

Penalty: Disciplinary action, at the discretion of the respective permanent secretaries, for not adhering to the requirement of this Policy whereby the financial regulations may be pursued.

- 10.2 Loss: includes where the Ministry suffers a loss due to the fault of an officer.

Penalty: Surcharge action may be imposed on officer(s) that are indirectly responsible for the loss in accordance with the applicable laws.