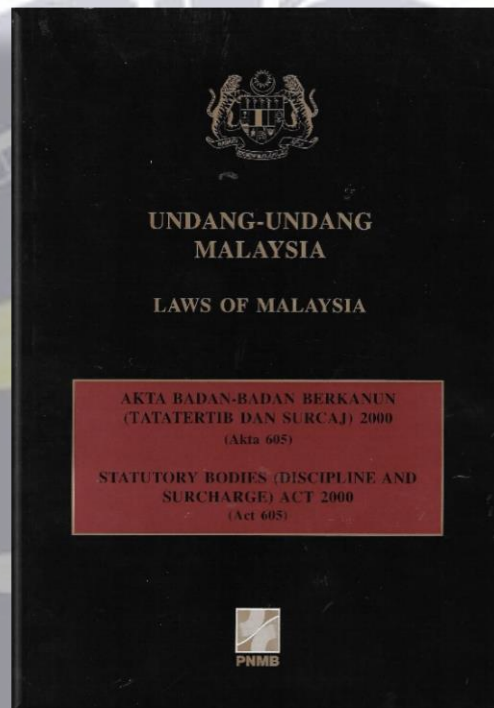


**DISCIPLINE AND  
SURCHARGE**



**STATUTORY BODIES (DISCIPLINE AND  
SURCHARGE) ACT 2000  
(Act 605)**

**(Act 605) AKTA BADAN-BADAN BERKANUN  
(TATATERTIB DAN SURCAJ) 2000  
(Akta 605)**

Discipline and surcharge of National Sports Institute (NSI) staff are subjected to Statutory Bodies (Discipline and Surcharge) Act 2000 (Act 605) other than circulars and regulations issued by the Government.

The rationale for disciplinary rules are as follows:-

To ensure staff:

- i. Control and avoid:
  - Misappropriation
  - Abuse of power for personal purpose
- ii. perform duty efficiently, trustworthy and responsibly;
- iii. prioritizes public interest;
- iv. maintain good image of the Institute; and
- v. lay out the appropriate punishment for transgression.

**“Disiplin dalam mana-mana organisasi ialah untuk memastikan bahawa perjalanan pejabat dilaksanakan dengan betul dan cekap. Dengan itu disiplin boleh mengembangkan matlamat organisasi sebagaimana juga halnya dengan kesejahteraan dan keselamatan pekerja. Kaedah menentukan nilai kelakuan di tempat kerja; prosedur menolong memastikan nilai itu dipatuhi dan juga memperuntukan cara yang adil dalam berurusan dengan keabaaian yang dikatakan ataupun kegagalan mematuhi.”**

***Syed Ahmad Idid, Undang-undang Amalan Siasatan Domestik dan Pembuangan Kerja, DBP, 1990***

Under the Second Schedule, Part II, Statutory Bodies (Discipline and Surcharge) Act 2000 (Act 605) lists the code of conduct that NSI staff need to comply.

### **COMPLIANCE OF CODE OF CONDUCT**

Regulation 3, Statutory Bodies Disciplinary Regulations, Statutory Bodies (Disciplinary and Surcharge) Act 2000 (Act 605):-

1. An officer shall at all times give his undivided loyalty to the Yang Di-Pertuan Agong, the Country, the Government and the Statutory Body.

Example of misconduct:

- i) conspiring with enemies of the Country;
- ii) leak the secrets of the Government; or
- iii) discredit the Government policies and actions.

2. An officer shall not:-

- (a) subordinate his duty to the statutory body to his private interests;

Example of misconduct:

- (i) managing their own/wife/child/relatives business during office hours/official duties.
  - (ii) siding/giving priority to relatives/friends in considering an application
- (b) **conduct himself in such a manner as is likely to bring his private interests into conflict with his duty to the statutory body;**

Example of misconduct:

- (i) Managing tender/quotation whereas the staff knows the submitted tenders/quotations are from their relatives.

- (c) **conduct himself in any manner likely to cause a reasonable suspicion that:-**

- i) He has allowed his private interests to come into conflict with his duty to the statutory body so as to impair his usefulness as an officer of the statutory body; or

Example of misconduct:

- (i) Fail to take action against person who has violated the rules with the intention of receiving a reward from him.

- ii) He had used his position as an officer of the statutory body for his personal advantage.

Example of misconduct:

- (i) Use and drive department vehicles for personal use such as going to office from home and vice versa, sending children to school and etc.;
- (ii) Using office facilities for personal purposes.

- (d) **conduct himself in such a manner as to bring the statutory body into disrepute or to bring discredit to the statutory body;**

Example of misconduct:

- (i) Involved in drug abuse
- (ii) Being convicted under criminal offences/syariah courts (khalwat's case)
- (iii) Being at an improper place during office hours
- (iv) Sexual harassment

- (e) **lack efficiency or industry;**

Example of misconduct:

- (i) No initiative taken to complete task given as soon as possible
- (ii) No capabilities and only act based on directions given
- (iii) Always late to the office
- (iv) Fail to manage bank statements and cash books in an organized and systematic way

- (f) **be dishonest or untrustworthy;**

Example of misconduct:

- (i) Make false claims for overtime/travel/purchases
- (ii) Submit fake medical certificate/amend medical certificate

(iii) Fake another staff member's attendance (punch-card)

(g) **be irresponsible;**

Example of misconduct:

- (i) Forge an officer's signature
- (ii) Absence from work without prior permission or without leave or without reasonable cause
- (iii) On leave when services are very much needed

(h) **bring or attempt to bring any form of outside influence or pressure to support or advance any claim relating to or against the statutory body, whether the claim is his own claim or that of any other officer of the statutory body;**

Example of misconduct:

- (i) Get help from politicians to support their application for a position, Government land or house application
- (ii) Get help from VIPs to influence Board Member of Institute regarding his promotion.

(i) **be insubordinate or conduct himself in any manner which can be reasonably construed as being insubordinate; and**

Example of misconduct:

- (i) Protesting or opposing against superior officer
- (ii) Taking out classified files of the Department without obtaining written permission from Head of Department
- (iii) Fail to comply with rules that has been enforced

(i) **be negligent in performing his duties.**

Example of misconduct:

- (i) Losing statutory body assets that was under custody
- (ii) Processing payment without checking whether the work is completed or not
- (iii) Negligent in ensuring that items purchased by Department are included in inventory list.

### **OTHER PROHIBITIONS**

Under the same Act are stated other prohibitions that need to be complied with; which has been divided to 2 categories:

- (i) **Absolute Prohibition**
- (ii) **Prohibition that is allowed with permission**

**ABSOLUTE PROHIBITION**

REGULATION	TYPE OF PROHIBITION	EXAMPLE OF MISCONDUCT
6	<p><b>Drugs</b></p> <p>Action:</p> <ul style="list-style-type: none"> <li>i. Disciplinary action with a view to dismissal; and</li> <li>ii. The service of the officer could be terminated in the public interest.</li> </ul>	Use or consume any dangerous drug, except for medicinal purposes, which has been described by medical practitioner.
8	<p>Accept or accept entertainment (in bribery form), if:</p> <ul style="list-style-type: none"> <li>(a) The entertainment did influenced official duties of the officer</li> <li>(b) Contradicted with regulation 3.</li> </ul>	<ul style="list-style-type: none"> <li>i. Contractors entertain Head of Department for his position as Board Members of Tender</li> <li>ii. Entertainment = shopping, hotel, transportation fees, etc.</li> </ul>
10	Maintaining a standard of living beyond emoluments and legitimate private means	Own/possess pecuniary resources or property (moveable and immovable), the value of which is disproportionate to his emoluments and other legitimate private means.
11	<p><b>Borrowing money:</b></p> <p>Shall not borrow from any person as surety to any borrower, or in any manner place himself under pecuniary obligations to any person:</p> <ul style="list-style-type: none"> <li>(a) Who is directly or indirectly subject to his official authority;</li> <li>(b) With whom the officer has or is likely to have official dealings;</li> <li>(c) Resides or possesses land or carries business within the local limits of his official authority; or</li> <li>(d) Who carries on the business of money lending.</li> </ul> <p>Officer may borrow from/be guarantor to any person, if the loan:</p> <ul style="list-style-type: none"> <li>i) Bank/financial institution</li> <li>ii) Insurance company (security of insurance policy)</li> <li>iii) Co-operative societies</li> <li>iv) Hire-purchase agreement</li> </ul> <p>Conditions:</p> <ul style="list-style-type: none"> <li>i) The institution is not directly or indirectly subject to his official authority;</li> <li>ii) Not leading to public scandals/abuse of public positions</li> </ul>	Borrow money or be guarantor to any person who is related to his official authority.

REGULATION	TYPE OF PROHIBITION	EXAMPLE OF MISCONDUCT
	iii) Aggregate debt does not cause serious indebtedness.	
12	<b>Serious pecuniary indebtedness.</b> i) The aggregate of his unsecured debts and liabilities at any given time exceeds his monthly emoluments; ii) He is a judgment debtor and the judgment debt has not been settled within the period specified in the judgment; or iii) A bankrupt, for so long as he is not discharge from bankruptcy or his adjudication of bankruptcy has not been annulled (insolvent)	i) Guarantor fails to pay debtor's debts within 1 month after issuance of court order; ii) When a person has been adjudged bankrupt by court, all his property including salaries will be administered by Insolvency Department. The salary itself is insufficient to release the person from liability.
14	<b>Lending Money</b> Shall not lend money at interest.	Officer lend money with interest.
15	Involvement in the future market	Engaged in the future market / commodity market whether as a buyer or seller, in a local or overseas market.
16	<b>Raffles and lotteries</b> Shall not hold or organize or participate in any raffles other than purposes of charity.	Use private property for raffles or lotteries other than for charitable purposes.
17	<b>Publication of books.</b> Shall not publish or write any book, article or work which is based on classified official information.	Publish or write any book, article or work which is based on classified official information. (top secret, secret and confidential)
19	<b>Acting as an editor in any publication.</b> Shall not act as an editor of, or take part directly or indirectly except for : i) Departmental Publications; ii) Professional Publications; iii) Publications of non-political voluntary organizations; and iv) Publications approved in writing by the Director General for the purposes of this regulation.	i) Act as an editor of daily newspaper ii) Act as an editor for political article
20	<b>Taking part in politics</b> An officer in the Top Management Group or the Managerial and Professional Group shall not take an active part in political activities or	i) Campaign on behalf of political party ii) Hold any post in political party iii) Wearing emblem of a political party.

REGULATION	TYPE OF PROHIBITION	EXAMPLE OF MISCONDUCT
	wear any emblem of a political party, and in particular: i) Make any public statement that would convey a partisan view on any matter which is an issue between political parties; ii) Publish/circulate any material setting forth his partisan views or the views of other person on any matter pertaining to political party; iii) Engage in canvassing in support of any candidate at an election; iv) Act as an election agent or polling agent; v) Stand for election for any post in any political party; or vi) Hold any post in any political party.	
23	<b>Disciplinary Action for Absence Without Leave.</b>  An officer's absence from duty or without prior permission or without reasonable cause shall render him liable to disciplinary action.	i) Officer disappears after 'punch-in' his/her attendance in the morning and comes back in the evening to 'punch-out'. ii) Non-compliance of working hours

**PROHIBITION THAT IS ALLOWED WITH PERMISSION**

REGULATION	EXCEPTION	EXAMPLE OF MISCONDUCT	POWER TO GIVE PERMISSION
4	<p><b>Outside Employment</b></p> <p>Conditions:</p> <p>i) Does not take place during office hours and during such time when the officer is required to perform his official duties;</p> <p>ii) Does not in any way tend to impair the officer's usefulness as an officer of the statutory body;</p> <p>iii) Does not in any tend to conflict with the interest of the statutory body.</p>	i) Night market business or being a security guard.	Head of Department
5	<p><b>Dress Etiquette</b></p> <p>Shall always be properly attired when it has been specified by the statutory body through directives issued from time to time.</p>	<p>i) Wear sleeveless shirt, T-shirt without collar</p> <p>ii) Wear jeans, shorts and others.</p>	Head of Department
7	<p><b>Presents</b></p> <p>Shall not receive nor give nor shall allow his spouse or any other person to receive or give on his behalf, any present/entertainment, if:</p> <p>i) Related to his official duties</p> <p>ii) The form, amount or value of the presents is not <i>*equivalent</i> to the actual means.</p> <p><i>*value of the present less than ¼ of emoluments @ RM500</i></p>	An officer and/or his near relatives receive present from any contractors, suppliers, customers or others.	Head of Department  (Service Circular No. 3 Year 1998)
9	<p><b>Ownership of Property</b></p> <p>Shall declare in writing all properties owned by him or by his spouse or child or held by any person on his behalf or on behalf of his spouse or his child:</p> <p>i) On the date of appointment</p> <p>ii) Anytime required by the Statutory Body</p> <p>iii) Obtain new properties</p> <p>iv) Disposal of properties</p>	The officer fail to declare properties owned by him.	Head of Department  (Service Circular No. 3 Year 2002)



REGULATION	EXCEPTION	EXAMPLE OF MISCONDUCT	POWER TO GIVE PERMISSION
	v) In every 5 years  *All properties owned by him or by his spouse or child or held by any person on his behalf or on behalf of his spouse or his child. Including properties given by parents/spouse/child and others.		
18	<b>Making public statements</b>  Prohibited, EXCEPT on obtaining permission from Minister of the Statutory Body.  ➤ Any statement/comments to newspaper/public during talks/public speeches or in any broadcast/publication. ➤ Any statement that is detrimental to policies/planning/decision of the Statutory Body.	Make comment/explanation pertaining to some events without prior permission from the Minister.	Minister  (Distribution Letter DGPS: JPA.BK(S)343/7-4(14) dated 15 <sup>th</sup> July 2016)
20	<b>Taking Part in Politics</b>  i) Officer in the Support Group may stand for election/hold post in political party ii) Leave before retirement - All group (with permission)	Did not report to the Board regarding the officer's involvement in politics.	Board

### **TERMINATION IN THE PUBLIC INTEREST**

Based on Section 10(1), Part II, Statutory Bodies (Disciplinary and Surcharge) Act 2000, Act 605, Disciplinary Committee may recommend to the Board that the service of an officer may be terminated in the public interest even though no disciplinary proceedings have been carried out under this Act.

### **PUNISHMENT**

Regulation 40, Part VI, Second Schedule, Statutory Bodies Disciplinary Regulations, Statutory Bodies (Disciplinary and Surcharge) Act 2000, Act 605, if an officer is found guilty of a disciplinary offence, any one or any combination of two or more of the following punishments, depending upon the seriousness of the offence:

- a) Warning;
- b) Fine;
- c) Forfeiture of emoluments;

- d) Deferment of salary movement;
- e) Reduction of salary;
- f) Reduction in rank;
- g) Dismissal.

## **APPEAL**

If an officer has been found guilty of a disciplinary offence by Disciplinary Committee, the officer may appeal to Disciplinary Appeal Committee as prescribed in Part II, Third Schedule, Statutory Bodies Disciplinary Regulations, Statutory Bodies (Disciplinary and Surcharge) Act 2000, Act 605.

## **DISCIPLINARY ACTION PROCEDURE**

1. Head of Department (Divisional Director/Head of Department/Centre/Unit) shall take action:
  - Misconduct by officer;
  - Shall call for meeting/advise/oral warning; and if the officer still repeat the offence;
  - Request for show-cause letter and if (the feedback) is not satisfying/no feedback/continuous offence, Head of Department shall report this matter to Secretariat of Disciplinary Committee.
2. Complaints/Reports from Head of Department  
The reports must include:
  - i. Name/Staff ID/IC Number, Post, Division/Department/Centre/Unit.
  - ii. Details on misconduct (Date and time). If the offence is absence from duty, the report shall include the officer's attendance record.
  - iii. Specified the offence(s)
  - iv. The evidences of offence (Eg: photo, attendance record/doctor's confirmation letter and etc.) *(if any)*
  - v. Witness (Name/Staff ID/IC Number/Post) *(if any)*
  - vi. Documents/regulations that specify the procedure of the Department *(if any)*
  - vii. Other information such as warning letter from Head of Department and etc.
3. Absence from Duty without Leave/Prior Permission/Reasonable Cause Case
  - i. Head of Department shall inform Financial Management Department and Finance Division to forfeit all such emoluments of the officer for period of his absence;
  - ii. Deliver A.R registered letter/formal letter together with acknowledgment letter, request the officer to return to work. After the above procedure has been done, Head of Department shall inform Secretariat of Disciplinary Committee whether the officer reports for duty or fails to report duty and no news is heard from him.

## **DUTY TO EXERCISE DISCIPLINARY CONTROL AND SUPERVISION**

Regulation 21, Part II, Second Schedule, Statutory Bodies Disciplinary Regulations, Statutory Bodies (Disciplinary and Surcharge) Act 2000, Act 605 stated that:

- (1) “It is the duty of every officer to exercise disciplinary control and supervision over his subordinates and to take appropriate action for any breach of the provisions of these Regulations.
- (2) An officer who fails to exercise disciplinary control and supervision over his subordinates, or to take action against his subordinate who breaches any provisions of these Regulations shall be deemed to have negligent in the performance of his duties and to be irresponsible, and he shall be liable to disciplinary action .”



## **SURCHARGE**

Surcharge is a method for the government to recover all losses whether in monetary or monetary value on the part of the government caused by an officer who responsible on his carelessness and negligent act.

Section 14, Part IV, Statutory Bodies Disciplinary Regulations, Statutory Bodies (Disciplinary and Surcharge) Act 2000, Act 605, stated that a person who is or was in the employment of a statutory body may be surcharged if it appears to the Board that the person:

- (a) “did not or has failed to collect any moneys owing to the statutory body the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of moneys from the statutory body or for any payment of moneys not duly approved;  
(overpayment or unauthorized payment)
- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any money, stores or other property of the statutory body;
- (d) being or having been an accounting officer, did not or has failed to keep or monitor proper accounts or records of the statutory body; or
- (e) did not or has failed to make any payment, or is or was responsible for any delay in the payment of moneys from the statutory body to any person to whom the payment is due under the law or under any contract, agreement or arrangement entered between that person and the statutory body.”

### **OFFENCES THAT MAY BE SUBJECTED TO SURCHARGE**

1. Criminal offence of public servant
  - i. Misuse of statutory body money for personal gain
  - ii. Misuse/cause damage to the statutory body’s properties for personal gainAction: Maximum
2. Officer’s negligence
  - i. Losing NSI money because the officer kept it in an unsafe place.
  - ii. Did not deposit NSI money/cheque within prescribed time.
  - iii. Unauthorized expenditure using NSI money.
  - iv. Fail to carry duty to supervise NSI money/properties
  - v. Fail to provide NSI financial report

Surcharge recommendation depends on the amount of money involved, the involvement of the officer in the offence either directly or indirectly, whether his act is adversely or due to lack of knowledge.

## RELATED ELEMENTS

- ✓ Offence and surcharge imposed against him shall be recorded in his service book (for permanent staff)
- ✓ Not a disciplinary action
- ✓ Surcharge did not prevail any disciplinary action
- ✓ Surcharge can be withdrawn by Board

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