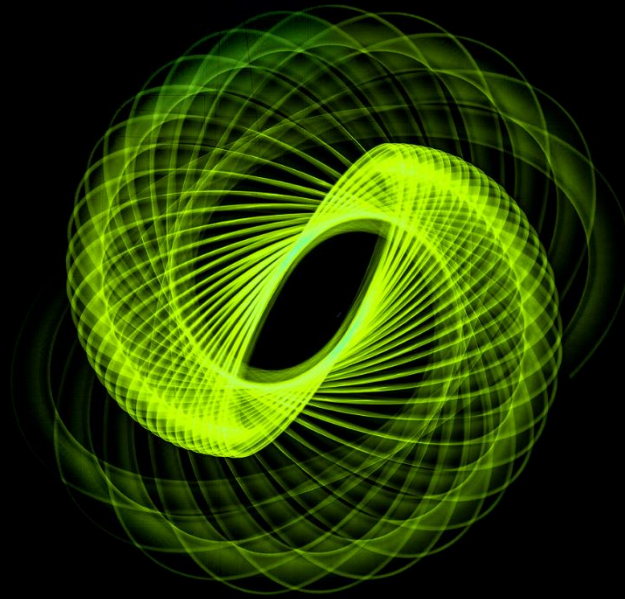


Tax & Legal Alert
August 2021



Keeping you in the loop

Finance Act Alert

Following our Budget Highlights and our Finance Bill, 2021 (“the Bill”) Alert published on June 28, 2021, this update sets out a high level summary of the changes and clarifications contained in the Finance Act, 2021 (“the Act”), which may have not been included in the Budget Speech read by the Minister for Finance and Planning (the Minister) and in the Bill. The Act came into effect on 1 July 2021.

The Electronic and Postal Communications Act, CAP 306 ("EPOCA")

The Act added section 164A to the EPOCA as initially proposed in the Bill, but the Act provide for establishment of a development levy to be charged on airtime at a rate ranging from TZS 5 to TZS 222.70.

The amendment further empowers the Minister responsible after consultation with the Minister of Finance to make regulations prescribing the manner and modality under which the Levy may be collected and accounted for. We understand that these regulations are yet to be published.

The Excise (Management and Tariff) Act, Cap 147

The Act amended the fourth schedule for undenatured ethyl alcohol with Heading 22.08 (spirits, liqueurs, and other spirituous beverages) whereby the excise duty rate has been increased by 20% instead of the 30% rate that was proposed by the Bill.

The Gaming Act, Cap 41

The Bill proposed an amendment to the Second Schedule by increasing gaming tax on Sports Betting from 25% of the Gross Gaming Revenue to 30% of the Gross Gaming Revenue provided that 5% of the tax shall be allocated to the Sports Development Fund. However, the Act, has maintained the old rate of 25% gaming tax on Sports Betting provided that 5% of the tax shall be allocated to the Sports Development Fund.

The Income Tax Act, Cap 332 ("ITA")

While the Bill proposed to amend section 3 of the ITA by defining the term "Minister" to mean the Minister responsible for finance, the Act has omitted this change.

The Act does not include the initially proposed changes to section 4 of the ITA of introducing presumptive tax for small scale mining operators.

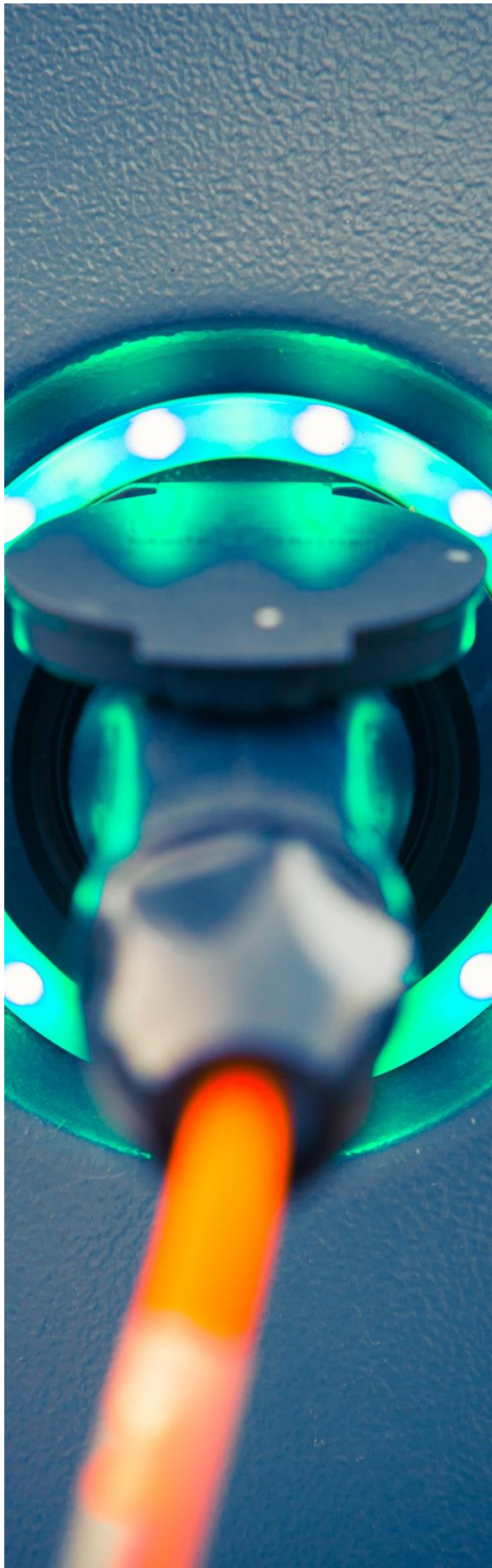
The Act has specified that interest derived from government bonds of not less than three years issued and listed on the Dar es Salaam Stock Exchange from 1 July 2021 will be exempted from income tax.

The Local Government Authorities (Rating) Act, Cap. 289

The Act has amended the definition of the term "rateable property" in the District Councils for a plot with more than one building. The new definition states that "in the case of a plot with more than one building, all buildings in actual occupation in that plot including improvements on, in or under such buildings".

The Act further amended section 16(2A) by introducing a new provision for the management of money collected as property rate whereby the Minister responsible for finance is required to cause 15% of the monies collected to be remitted to the Ministry responsible for local government authorities.





The National Payment Systems Act, Cap. 437 (“NPS Act”)

The Act added section 46A to the NPS Act as initially proposed in the Bill, but the Act provides for establishment of a levy to be charged on mobile money transfer transactions at a rate ranging from TZS 10 to TZS 10,000.

The amendment further empowers the Minister of Finance to make regulations prescribing the manner and modality under which the Levy may be collected and accounted for. A summary of the regulations is found at the end of this Alert.

Public Audit Act, Cap.418

Following the Government’s intention to extend the mandate of the Controller and Auditor General, the Bill proposed to amend section 3 of the Public Audit Act by including the new definition of “Public authority” which would mean a body of persons, whether or not corporate, owned by the Government or which the **Government holds any amount of shares.**

However, the Act has amended the same section by expanding the definition of the terms “public authority” or “body” to now mean a body of persons, whether or not corporate, established under any written law, whose function are of public nature and are exercised for furtherance of the public policy, and shall include authorities or bodies:

- Which receives contribution from public funds or whose operations impose or create a liability upon public funds;
- The government controls more than 50% of shares;
- Whose accounts are required to be audited or open to inspection by the CAG; or
- Which has, in any of its financial year, received more than half of its income from public funds.

The Tax Administration Act, Cap. 438 ("TAA")

The Act has amended section 56(1) of the TAA that provides for the manner of collection of property rate. Following the amendments, property rate will now be paid at the time of payment for electricity bills in case of rateable properties connected with electricity.

However, for rateable properties not connected with electricity, the property rate shall be paid at any tax office or at any bank approved for the purpose of collection of property tax or through mobile phone payment system.

In the budget speech, the Minister of Finance highlighted the Government's intention to abolish 100 percent transfer pricing penalty under the Transfer Pricing Regulations imposed for failure to comply with the requirements of the law. Consequently, the Act has amended section 79 of the TAA which provides for penalty for making false or misleading statements.

From the amendment of section 79 of the TAA, any person who enters into controlled transactions or series of controlled transaction and fails to comply with the arm's length principle will be liable for a penalty which will be one hundred percent of the tax shortfall.

The Value Added Tax, Cap. 148

Following the harmonisation of VAT between Tanzania Mainland and Tanzania Zanzibar, the Act has amended section 3 of the VAT Act whereby the TRA will be required to remit the VAT collected, in respect of a recipient who is taxable person in Tanzania Zanzibar to the Zanzibar Revenue Board instead of remitting the same to Tanzania Zanzibar Treasury as per the proposal of the Bill.

The Act has also amended item 7 under Part I of the Exemption Schedule whereby supplies and importation of packaging material specifically designed for packaging pharmaceutical products will be exempt from VAT without necessarily bearing the name of a local manufacturer on the packaging material.

Exemption of VAT on importation of precious minerals, tin, tungsten, tantalum, mineral concentrates and loaded carbon by any person for processing, smelting, refining or sale in the Mineral and Gem Houses or buying stations designated by the Mining Commission.

Following the proposed change to exempt VAT on importation of artificial grass of HS Code 5703.30.00 and 5703.20.00 for football pitches, the Act has specified that the football pitches should be located in City or Municipal Council approved by the National Sports Council of Tanzania.

The Vocational Education and Training Act, Cap. 82

The Act has not included the initially proposed introduction of Skills and Development Levy ("SDL") to individual employers engaged in small scale mining operations.

The Higher Education Student's Loans Board Act, Cap. 178

The Act has amended the HESLB Act by barring the board from imposing retention fee or any other fee, charges, penalty or payments on repayment of loan owed by former student loan beneficiaries without prior approval of the Minister responsible for Education in consultation with Minister responsible for Finance.

Omitted amendments

The Bill proposed a number of amendments in the Local Government Act including:

- Provision of clarity on circumstances which a corporate entity liable for service levy may not be liable to pay produce cess along the value chain of a produce.

However, the Act has not made changes in the Local Government Act.

Exemption of VAT on importation of precious minerals, tin, tungsten, tantalum, mineral concentrates and loaded carbon by any person for processing, smelting, refining or sale in the Mineral and Gem Houses or buying stations designated by the Mining Commission.

The National Payment Systems (Electronic Mobile Money Transfer and Withdrawal Transactions Levy) Regulations, 2021

Following the amendments to the National Payment Systems Act, Cap. 437 ("NPS Act"), the Minister of Finance issued Regulations that provide for manner and modality for the collection of electronic mobile money transfer and withdrawal transactions levy effective 1 July 2021,

General rules:

- The Regulations will only apply to electronic mobile money transfer and withdrawal transactions through the payment system licensed under the NPS Act excluding merchant, business, or government payment transactions.
- Under these Regulations, banks, financial institutions or electronic money issuers are required to collect the electronic mobile money transfer and withdrawal levy and remit it to the TRA and file a return in the manner and form approved by the TRA within seven days of the month following the month to which the levy relates to.
- However, the collector will be allowed to apply for extension of time, not exceeding seven days, to file a return where one has reasonable grounds to warrant an extension of time. An application for extension of time to file a return does not preclude the collector from payment of levy within seven days following the month to which the levy relates to.



Non-compliance with the due dates

Interest for late payment of the levy

- The Regulations impose interest that will be compounded at the statutory rate issued by the Bank of Tanzania for each month or part of month thereof during which the failure continues.

Penalty for late filing of return

- The Regulations impose penalty amounting to TZS 1,000,000 for each month or part thereof for which the late filing continues.

Monitoring powers given to the TRA

The Regulations require the TRA to maintain a system for monitoring electronic mobile money transfer and withdrawal.

The TRA is further empowered with the following:

- Verification of the returns;
- Conducting inspection of the collector's premises;
- Requesting any data or information from the collector; and
- Taking actions against non-compliance or the Regulations

A collector is required to submit information to the TRA within fourteen days in case of being requested for the information by the TRA.

The Regulations impose a penalty of TZS 500,000 for each day during which the failure continues in case of the collector who fails to submit the requested data or information within the prescribed time without reasonable cause.

Non-disclosure of information

The Regulations, requires the employees of the TRA handling the information received or obtained during the exercise of the powers of the TRA or performance of its duties not to disclosure such information or data unless required by the law or for the purpose of national security.

Appeals

A person who is aggrieved by the decision of the TRA under the Regulations has a right within thirty days, to appeal to the Minister responsible for Finance. However, the regulations do not provide for further guidance on the manner and modality of filing an appeal.

Offences and Penalty

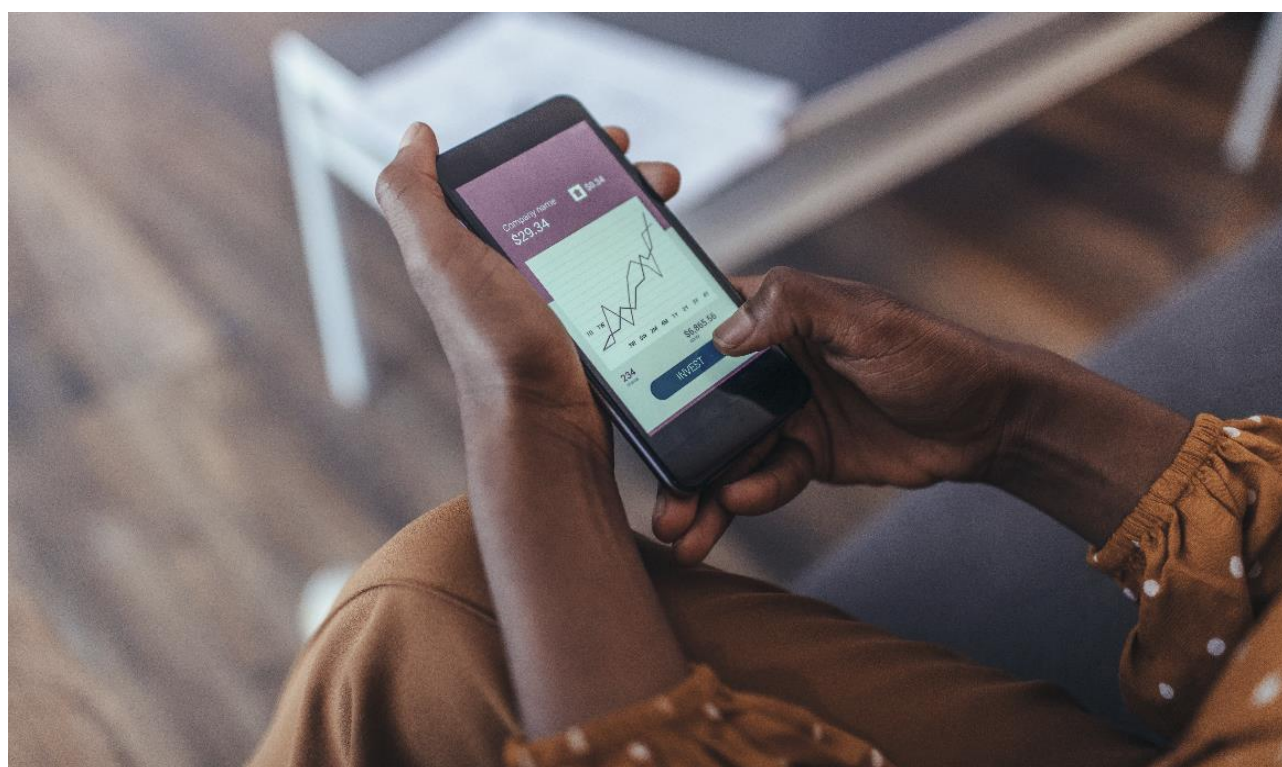
In case of contravening with the provisions of the Regulations, a person will be deemed to have committed an offence and consequently liable for a fine of not less than TZS 5,000,000 or imprisonment for a term of not less than 12 months or both.

However, a person who commits an offence and admits the same in writing to the Commissioner General of the TRA, may be liable for a fine not exceeding the amount of the fine prescribed for the offence.



Chargeable rates

S/N	Electronic Mobile Money transfer and withdrawal amount in TZS	Rate in TZS	Percentage of the lowest amount	Percentage of the highest amount
1.	1 to 999	NIL	0.00%	0.00%
2.	1,000 to 1,999	10	1.00%	0.50%
3.	2,000 to 2,999	16	0.80%	0.53%
4.	3,000 to 3,999	27	0.90%	0.68%
5.	4,000 to 4,999	56	1.40%	1.12%
6.	5,000 to 6,999	100	2.00%	1.43%
7.	7,000 to 9,999	125	1.79%	1.25%
8.	10,000 to 14,999	320	3.20%	2.13%
9.	15,000 to 19,999	610	4.07%	3.05%
10.	20,000 to 29,999	960	4.80%	3.20%
11.	30,000 to 39,999	1,100	3.67%	2.75%
12.	40,000 to 49,999	1,500	3.75%	3.00%
13.	50,000 to 99,999	2,050	4.10%	2.05%
14.	100,000 to 199,999	2,530	2.53%	1.27%
15.	200,000 to 299,999	2,940	1.47%	0.98%
16.	300,000 to 399,999	3,500	1.17%	0.88%
17.	400,000 to 499,999	4,100	1.03%	0.82%
18.	500,000 to 599,999	5,200	1.04%	0.87%
19.	600,000 to 699,999	6,400	1.07%	0.91%
20.	700,000 to 799,999	7,100	1.01%	0.89%
21.	800,000 to 899,999	7,520	0.94%	0.84%
22.	900,000 to 1,000,000	8,900	0.99%	0.89%
23.	1,000,001 to 3,000,000	9,400	0.94%	0.31%
24.	3,000,001 and above	10,000	0.33%	



The Electronic and Postal Communications (Airtime Levy) Regulations, 2021

Following the amendments to the Electronic and Postal Communications Act, Cap 306, the Minister of Communication, Science and Technology issued Regulations that provide for manner and modality for the collection of airtime levy on airtime recharge by subscribers which came into force affectively from 1 July 2021,

General rules:

- The Regulations will only apply to airtime recharge by subscribers.
- Under these Regulations collectors (defined to mean a telecommunication service provider licensed by the Authority as a Network Service Licensee) are required to collect from subscribers airtime levy and remit it to the Tanzania Communications Regulatory Authority (“TCRA”) within seven days of the month following the month to which the levy relates to.
- Failure to collect and remit the levy within the prescribed time attracts interest at a statutory rate compounded monthly.



Returns

Time for submission of return

- Return form in a manner approved by TCRA shall be filed within 7 days following the month to which the levy relates.
- A collector may apply for an extension to file return which shall not exceed seven days.
- Extension to file return shall not apply to payment of the airtime levy.

Penalty for late filing of return

The Regulations impose penalty amounting to TZS 1,000,000 for each month or part thereof for which the late filing continues.

Monitoring powers given to the TRA

The Regulations require the TCRA to maintain a system for monitoring airtime recharge.

The TCRA is further empowered with the following:

- Verification of the returns;
- Conducting inspection of the collector's premises;
- Requesting any data or information from the collector; and
- Taking actions against non-compliance or the Regulations

A collector is required to submit information to the TRA within fourteen days in case of being requested for the information by the TCRA.

The Regulations impose a penalty of TZS 500,000 for each day during which the failure continues in case of the collector who fails to submit the requested data or information within the prescribed time without reasonable cause.

Non-disclosure of information

The Regulations, requires the employees of the TCRA handling the information received or obtained during the exercise of the powers of the TCRA or performance of its duties not to disclose such information or data unless required by the law or for the purpose of national security.

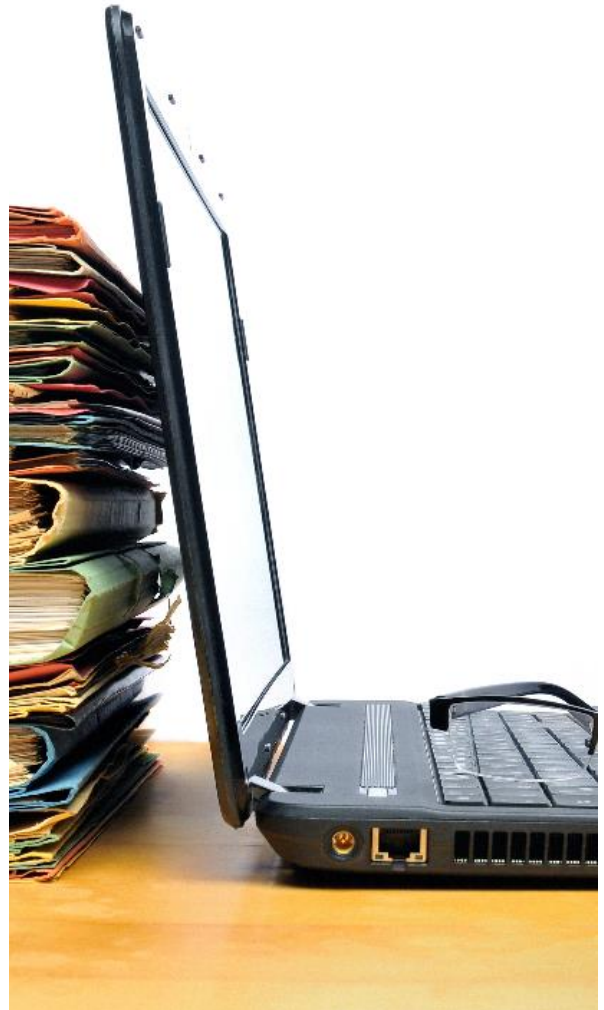
Appeals

A person who is aggrieved by the decision of the TCRA under the Regulations has a right within thirty days, to appeal to the Fair Competition Tribunal.

Offences and Penalty

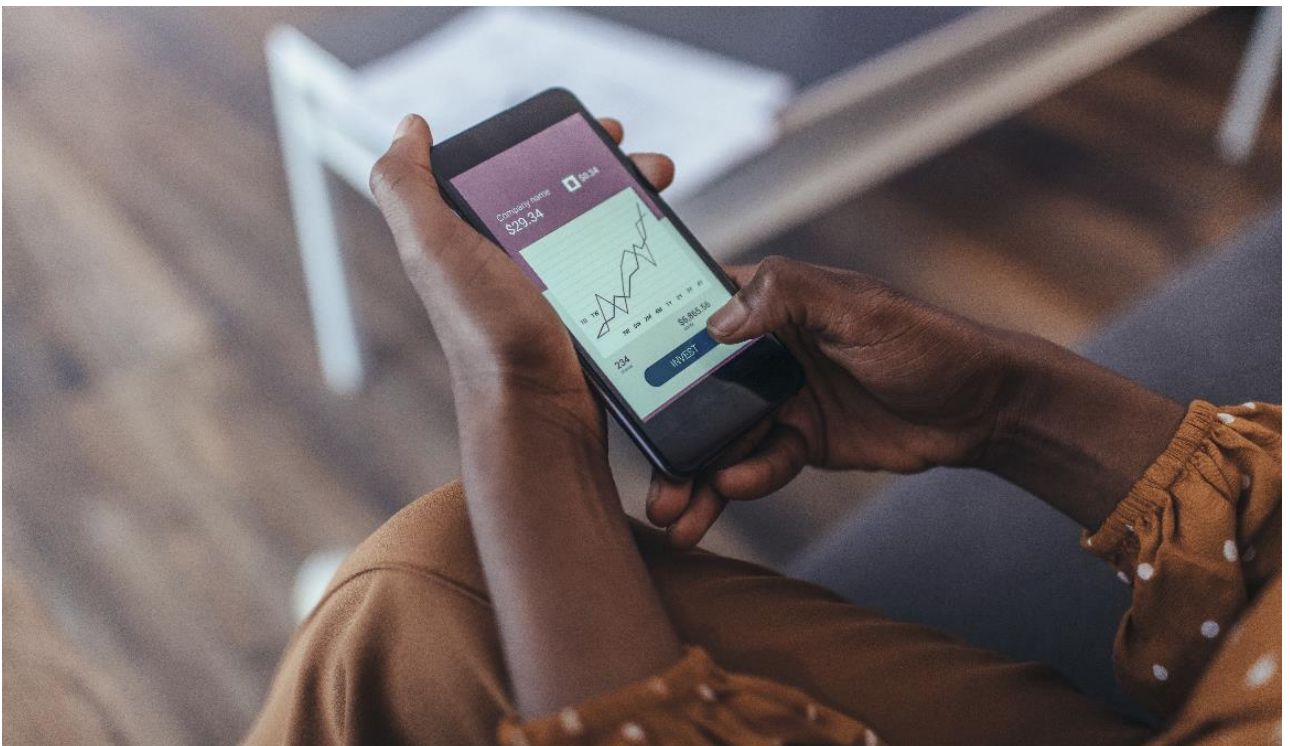
In case of contravening with the provisions of the Regulations, a person will be deemed to have committed an offence and consequently liable for a fine of not less than TZS 5,000,000 or imprisonment for a term of not less than 12 months or both.

However, a person who commits an offence and admits the same in writing to the Director General of the TCRA, may be liable for a fine not exceeding the amount of the fine prescribed for the offence.



Chargeable rates

S/N	Airtime amount recharged in TZS	Rate in TZS	Percentage of the lowest amount	Percentage of the highest amount
1.	Up to 1,000	5.00		0.50%
2.	1,001 to 2,500	10.00	1.00%	0.40%
3.	2,501 to 5,000	21.00	0.84%	0.42%
4.	5,101 to 7,500	40.00	0.78%	0.53%
5.	7,501 to 10,000	76.00	1.01%	0.76%
6.	10,001 to 25,000	113.00	1.13%	0.45%
7.	25,001 to 50,000	153.00	0.61%	0.31%
8.	50,001 to 100,000	186.00	0.37%	0.19%
9.	100,001 and above	223.00	0.22%	



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