

The Malawi Gazette Supplement, dated 22nd September, 2023, containing Regulations, Rules, etc. (No. 29A)

GOVERNMENT NOTICE NO. 51

NATIONAL CONSTRUCTION INDUSTRY ACT

(CAP. 53:05)

NATIONAL CONSTRUCTION INDUSTRY (LEVY) (AMENDMENT) ORDER, 2023

IN EXERCISE of the powers conferred by section 15 of the National Construction Industry Act, the National Construction Industry Council of Malawi, make the following Order—

1. This Order may be cited as the National Construction Industry (Levy) (Amendment) Order, 2023. Citation

2. The National Construction Industry (Levy) Order (hereinafter referred to as the “principal Order”) is amended, in paragraph 2, by inserting, immediately after the words “deducted by a client”, the words “for remittance to the Council”. Amendment of para. 2 of Cap 53:05 sub.leg. p47

3. The principal Order is amended by inserting, immediately after paragraph 2, new paragraphs 2A, 2B and 2C as follows— Insertion of para. 2A, 2B and 2C into the principal Order

“Levy imposed on client 2A. Where a client engages a contractor on a labor-only contract, the client shall pay a one per cent levy based on the cost of construction materials procured and the cost of plant and equipment used for the project.

Remittance of, or payment of, levy 2B. A levy deducted or paid under paragraph 2 shall be remitted or paid to the Council, as the case may be, within thirty days of the deduction or receipt of payment of the consultancy fees or the certified sum on each certificate.

Payment of levy condition precedent for renewal of registration, etc; 2C. Payment of the levy imposed under paragraph 2 shall be a condition precedent for renewal of registration and registration into a higher category of a consultant or contractor.”.

4. The principal Order is amended by deleting paragraph 4 and replacing therefor, a new paragraph as follows— Replacement of para. 4 of the principal Order

“Failure to pay levy or inform Council 4. A consultant or contractor who—
(a) fails to pay to the Council, the levy imposed under paragraph 2, or refuses to authorize a client to deduct the levy for remission to the Council; or

(b) fails to inform the Council of a project, or fails to file a copy of an invoice or certificate with the Council as prescribed under paragraph 3,

commits a disciplinary offence and shall be liable to disciplinary action by the Council.”.

Replacement
of para. 7 of
the principal
Order

5. The principal Order is amended by deleting paragraph 7 and replacing therefor, a new paragraph as follows—

“Valuation of
projects to be
done by
independent
valuation
experts

7.—(1) A client for a construction project shall, for purposes of determining the value of a project, engage an independent valuation expert to value the project.

(2) An independent valuation expert engaged under subparagraph (1) and paragraph 7A shall be a registered consultant.”.

Insertion of
para. 7A into
the principal
Order

6. The principal Order is amended by inserting, immediately after paragraph 7, a new paragraph 7A as follows—

“Council may
appoint an
independent
valuation
expert

7A.—(1) Where—

(a) a contractor and a consultant or a client and a contractor or a consultant are related persons through business or equity shareholding;

(b) there is a dispute on the cost of a project; or

(c) there is no cost given by either a client or a consultant on a project,

the Council may appoint an independent valuation expert to value the project.

(2) Where a valuation report is submitted by a contractor, consultant or client to the Council in instances envisaged under subparagraph (1) (a) and (b) and the valuation report submitted by the consultant appointed by the Council determines that the valuation report submitted by the client, contractor or consultant—

(a) undervalued the project, the fees payable to the independent valuation expert appointed by the Council shall be paid by the client, contractor or consultant, as the case may require; or

(b) is accurate or overvalued the project, the fees payable to the independent valuation expert appointed by the Council shall be paid by the Council.”.

Made this 14th day of September, 2023.

QS J. MAGABA
Chairperson

(FILE NO. ADMN/2/1)

National Construction Industry Council